

For publication

Staveley Town Council – Financial Rescue Package (DL000)

Meeting:	Council
Date:	22 February 2023
Cabinet portfolio:	Leader of the Council
Directorate:	Chief Executive
For publication	

1.0 Purpose of the report

- 1.1 The report has been prepared to enable members to consider whether Chesterfield Borough Council should provide a financial rescue package to Staveley Town Council to enable its staff to be paid, its debts to be cleared and some services to be delivered to Staveley households who make annual council tax payments in good faith to Staveley Town Council.

2.0 Recommendations

- 2.1 That Cabinet recommends to full Council ...
- 2.1.1 Approval of the Heads of Terms that have been developed by Chesterfield Borough Council as the basis of the financial rescue package for Staveley Town Council.
- 2.1.2 That it be noted that the final decision on whether Staveley Town Council can borrow money from Chesterfield Borough Council rests with the Secretary of State for the Department for Levelling Up, Housing and Communities.
- 2.1.3 That, subject to the Secretary of State's approval, authority is delegated to the Leader of the Council and Chief Executive to make any final minor adjustments to the Heads of Terms and to sign the financial rescue package on behalf of Chesterfield Borough Council.
- 2.1.4 That authority is delegated to the Chief Executive in consultation with the Leader of the Council and in conjunction with the Service Director – Finance and the Property, Procurement and Contracts Law Manager to finalise the terms of the loan agreement between Chesterfield Borough Council and Staveley Town Council.

2.1.5 That the Chief Executive and Service Director – Finance be asked to update the Council’s Cabinet at appropriate intervals on Staveley Town Council’s compliance with the terms of the financial rescue package; this reporting to be informed by the bi-monthly financial management report that Staveley Town Council will be required to provide to Chesterfield Borough Council demonstrating that expenditure and income performance is in line with agreed budget estimates / cashflow forecasts.

3.0 Reasons for recommendations

- 3.1 Without the facility of a loan the only option available to Staveley Town Council to raise the funds they need to pay staff and creditors and deliver some services would be to massively increase their precept i.e., council tax demand. This is not a desirable outcome given the current economic climate and cost of living challenges faced by Staveley households.
- 3.2 Without the facility of a loan (and assuming Staveley Town Council is not minded to massively increase its precept), Staveley Town Council would sit in a state of dormancy for the foreseeable future. It cannot be disestablished other than pursuant to a community governance review.
- 3.3 Staveley Town Council’s staff need to be paid and the deductions made from their wages passported through to HMRC and the Derbyshire Pension Fund; local companies need to be paid for the services and supplies they have provided to Staveley Town Council; the business tenants of Staveley Hall need a reliable landlord to support their needs; and Staveley households merit the delivery of some services in exchange for the council tax they pay each year to Staveley Town Council.

4.0 Report details

This report was considered by Cabinet at its meeting on 21 February, 2023 where it was resolved that the report and its recommendations be supported and referred to Council for approval.

Staveley Town Council

- 4.1 Staveley Town Council is one of two Parish Councils that currently operate within Chesterfield borough, the other being Brimington Parish Council.
- 4.2 Town and Parish Councils are the level of government closest to communities. They can be a focus for community effort, provide a range of services which enhance quality of life and help to give their communities a democratic voice with other key agencies such as borough and county councils, police, fire, and NHS bodies.
- 4.3 Staveley Town Council provides services to some 19,000 residents.

- 4.4 Staveley Town Council's strapline is '*lighting the way to a brighter future*' and on its website it describes its role as follows ... '*Staveley Town Council takes a central role in the life of the town, supporting and encouraging whenever possible residents and the many voluntary organisations and businesses in our community. The Town Council works hard to make the voice of Staveley heard by higher authorities, at the same time insisting on the preservation of the character of the town and the Town Council.*'
- 4.5 Staveley Town Council operates two venues, Staveley Hall – a Grade II listed building which has recently been restored and comprises a business centre, meeting rooms, café and bar, outdoor terrace, and bowling green – and the Speedwell Rooms – a flexible events space for hire. Staveley Town Council also runs a weekly outdoor market, several allotment sites and organises various community events and activities e.g., summer activity programme, fireworks display, and Christmas lights switch-on.

Staveley

- 4.6 Staveley is a small town in northern Derbyshire within the borough of Chesterfield. The Industrial Revolution saw the mass expansion of Staveley. Staveley was a centre for mining, steelworks, and chemical manufacturing and very much part of Britain's industrial landscape.
- 4.7 As these industries declined so did Staveley's fortunes. Today levels of deprivation and unemployment are unfortunately high:
- Over half of Staveley's lower super output areas are among the 20% most deprived in the country with income and employment levels, levels of education, skills and training and health and disability all areas of concern.
 - 80% of Staveley's lower super output areas fall within the 10% most deprived in the country for health and disability, and 30% for income and 40% for employment (Index of Multiple Deprivation, 2019).
 - Staveley has higher unemployment rates especially among young people, lower life and healthy life expectancies, lower levels of access to a car/van and lower educational/ skills attainment than the national average.
- 4.8 In terms of potential, however, Staveley punches well above its weight. The Chesterfield Borough Local Plan 2018–2035 identifies Staveley as a major focus for growth and over the next 15 years there will be investment totalling over £1bn in employment and housing development and infrastructure.
- 4.9 The Staveley Corridor is the largest regeneration opportunity within Chesterfield borough (covering approximately 150 ha) with the promise of 3,500 new homes, 2,200 new jobs and a very much improved environment centred around the Chesterfield canal.

- 4.10 The eastern villages of Barrow Hill, Duckmanton, Mastin Moor and Poolsbrook are also identified as Regeneration Priority Areas.
- 4.11 The £25.2m Staveley Town Deal will also help catalyse Staveley's future 'as a place to start, a place to stay, and a place to grow' with investments planned in a range of infrastructure, development and skills initiatives (<https://www.chesterfield.gov.uk/media/1485734/staveley-town-investment-plan-part-1.pdf>). At the heart of these investments will be Staveley town centre, which will have an increasingly important role in terms of supporting Staveley's growth.

Staveley Town Council – an emerging financial crisis

- 4.12 On 30 November 2022, the Leader of Staveley Town Council asked to speak with the council's Chief Executive about emerging challenges in relation to Staveley Town Council's finances. The Leader advised that Staveley Town Council would be meeting that evening to consider a report that had been prepared by Staveley Town Council's Town Clerk and Responsible Finance Officer. The Leader spoke in general terms about the gravity of Staveley Town Council's financial position, and it was agreed that the council's Chief Executive would arrange to meet with Staveley Town Council's Town Clerk to discuss the financial position in more detail.
- 4.13 The report of Staveley Town Council's Town Clerk and Responsible Finance Officer titled 'operations review' was considered in private session. The minutes of Staveley Town Council's 30 November 2022 meeting are however available and illustrative of the gravity of Staveley Town Council's financial position, on two fronts:
- 4.13.1 the range of measures agreed to manage expenditure and increase income e.g., closing the community café, reducing the staffing establishment, and raising rents and service charges for Staveley Hall tenants.
- 4.13.2 reference in the public session to members considering the report of the Internal Auditor on Staveley Town Council's end of year accounts for the financial year 2021/22. The report has subsequently been published and is attached in full at Appendix A to this report. In the words of the Internal Auditor ... *"In conclusion, my internal audit of Staveley Town Council's books, records, and procedures indicates that the Town Council's system of internal control in place during 2021/2022 has not been adhered to and systemic failure has arisen through poor management."*
- 4.14 On 6 December 2022, the council's Chief Executive met with Staveley Town Council's Town Clerk. In summary, the following information was shared with the council's Chief Executive:

- Staveley Town Council had ended the financial year 2021/22 in deficit to the sum of £263k.
 - It was anticipated that Staveley Town Council's deficit would rise to £327k in the current financial year 2022/23.
 - Without intervention, Staveley Town Council's deficit would rise further to £544k in the financial year 2023/24.
 - There was insufficient cash in the business to pay Staveley Town Council staff, including the Town Clerk.
 - Monies had been deducted from the salaries and wages of Staveley Town Council staff, but these had not been paid over in full to HMRC and the Derbyshire Pension Fund.
 - There were multiple creditors awaiting immediate payment – an aggregate sum of £100k was mentioned.
 - Staveley Town Council had defaulted on its existing Public Works Loan Board (PWLB) loans and would not therefore be able to look to the PWLB for a further loan.
 - Staveley Town Council had lost its overdraft facility with the bank.
 - To deal with the above, Staveley Town Council would need a £380k loan to be repaid over 10-15 years and in a likelihood would need to set a precept of 11.1% for the financial year 2023/24.
- 4.15 Staveley Town Council has continued to meet to discuss the financial position, on 10 January 2023 and 31 January 2023. Whilst the reports have been considered in private session, the minutes are again illustrative of the financial difficulties that Staveley Town Council finds itself in with decisions taken at the 10 January 2023 meeting to further reduce the core staffing establishment and outsource Staveley Town Council's building cleaning service.
- 4.16 The majority 'Independent' group on Staveley Town Council then took the unusual step at the 31 January 2023 meeting of proposing a motion to rescind the decisions that had been made by Staveley Town Council respectively on 30 November 2022 to close the community café and on 10 January to further reduce the staffing establishment. There are to date no published minutes for the 31 January 2023 meeting, but it is understood that the motion was defeated.

Monies owed to Chesterfield Borough Council

- 4.17 On 3 January 2023, various council departments at Chesterfield Borough Council received the letter attached at Appendix B. In the letter, Staveley Town Council's Town Clerk and Responsible Finance Officer informs creditors *'that the Council is in a difficult position financially and, were it possible, would have likely declared itself bankrupt.'* The Town Clerk also seeks to manage expectations in stating *'that the majority of bills will not be able to be paid until mid-April 2023 at the earliest.'*
- 4.18 Ahead of receipt of the letter, the council's Chief Executive had already communicated with Staveley Town Council's Town Clerk setting out in detail

the amounts of money that Staveley Town Council owed to Chesterfield Borough Council as of 29 December 2022.

- 4.19 With regards to business rates accounts, Staveley Town Council owed an aggregated sum of £43,646. £4,570 related to the financial year 2020/21, £17,756 to the financial year 2021/22 and £21,320 to the current financial year 2022/23.
- 4.20 With regards to Sundry Debtor accounts, Staveley Town Council owed an aggregated sum of £3,858. These smaller amounts related to unpaid invoices in relation to buildings insurance (£430); Destination Chesterfield membership (£250); commercial waste collection (£3k); and electricity charges (£178).

Staveley Town Deal

- 4.21 On 1 December 2022, the council in its role as accountable body for the Staveley Town Deal began to receive correspondence from the design team for the Staveley Hall Conference and Events Centre project that members of the team had not been paid. An outstanding sum of £89k was quoted.
- 4.22 The correspondence raised concerns as Staveley Town Council as the project sponsor had already made claims totalling £138k from the Towns Fund (£10k in capacity funding and a 5% advance (£128k) of the £2.775m that had been provisionally allocated for the Staveley Hall Conference and Events Centre project).
- 4.23 As Chair of the Staveley Town Deal Internal Programme Board, the council's Chief Executive asked the Staveley Town Deal Manager to immediately undertake a forensic review of the claims that Staveley Town Council had made in relation to the Staveley Hall Conference and Events Centre project and in consultation with the council's Service Director for Finance it was agreed that the council's Head of Internal Audit be asked to carry out a full internal audit to establish whether the funding advances made to Staveley Town Council had been used to pay for eligible expenditure in connection with delivery of the Staveley Hall Conference and Events Centre project and in line with the funding agreement between Chesterfield Borough Council and Staveley Town Council.
- 4.24 The report of the council's Head of Internal Audit is currently marked as confidential but in summary, the auditors' conclusions read as follows:
 - 4.24.1 The majority of the grant funding (£138,275.09) has been paid over by Staveley Town Council to contractors for eligible expenditure in relation to the Staveley Hall Conference and Events Centre project. However, in respect of the capacity funding and 5% advance, Staveley Town Council has claimed £600 and £12.5k respectively from Chesterfield Borough Council but not paid the monies out to contractors.

4.24.2 Staveley Town Council do not currently have the funds to either repay this money to Chesterfield Borough Council or to pay the contractors.

4.24.3 Staveley Town Council has continued to incur expenditure in relation to the Staveley Hall Conference and Events Centre project in the absence of any apparent authorisation from Staveley Town Council to incur such expenditure. This is the outstanding sum of £89k to which reference is made in paragraph 4.21.

4.24.4 Given Staveley Town Council's financial position the Staveley Town Deal Board will need to make decisions in respect of the future of the Staveley Hall Conference and Events Centre project.

4.25 For reference, the council's Chief Executive and Service Director for Finance have informed officials at the Government's Cities and Local Growth Unit of the outcome of the Internal Audit and are in the process of preparing a report on this matter for consideration by the Staveley Town Deal Board. The Board is next scheduled to meet on 17 March 2023.

Meetings with the Department for Levelling Up, Housing and Communities

4.26 At the request of the Department for Levelling Up, Housing and Communities (DLUHC), the council's Service Director for Finance and the council's Head of Regulatory Law and Monitoring Officer met with DLUHC officials on 14 December 2022. Without going into detail, DLUHC's principal concern at the time was the matter of outstanding loan repayments from Staveley Town Council to the PWLB. To further illustrate this concern, DLUHC wrote on 15 December 2022 to the Leader of Staveley Town Council.

4.27 To quote from DLUHC's letter ... *"Failure to make the loan repayments raises significant concerns over (Staveley Town) Council's decision to borrow and adequacy of its financial management"* and *"As a matter of urgency, your Council should develop and implement plans for meeting its loan repayments and consider options including increasing income from the precept. If necessary, options for any support required should be discussed with Chesterfield Borough Council. I will provide Chesterfield Borough Council with a copy of this letter and will engage with them on what actions can be taken."*

4.28 It is the case that DLUHC have continued to engage with Chesterfield Borough Council. The council's Chief Executive, along with the council's Service Director for Finance and the council's Head of Regulatory Law and Monitoring Officer, has met with senior DLUHC officials on three further occasions, on 16 January 2023, 1 February 2023, and 8 February 2023.

4.29 It is evident from these conversations that what has happened at Staveley Town Council is an unprecedented situation for which there is no statutory provision or 'playbook'. DLUHC have confirmed that they have no legal powers to intervene nor are they aware of any legal powers that would

enable Chesterfield Borough Council to intervene other than those that allow a principal authority such as Chesterfield Borough Council to progress a community governance review, which might ultimately lead to Staveley Town Council's disestablishment.

- 4.30 DLUHC have also been clear that it is outside their powers to provide a grant or any other form of financial support to a Parish Council and given Staveley Town Council's failure to meet its existing loan repayments to the PWLB the Government would not entertain any application from Staveley Town Council for a further loan.
- 4.31 DLUHC have however been explicit in their expectation that a principal authority i.e., Chesterfield Borough Council should seek to work with a failing Parish Council within its geography i.e., Staveley Town Council to try and identify solutions to enable Staveley Town Council to continue to provide facilities and services for the area's residents and businesses.
- 4.32 The council's Chief Executive has also spoke at length with the Local Government Association (LGA) and likewise the council's Service Director for Finance with the Chartered Institute of Public Finance and Accountancy (CIPFA). Both the LGA and CIPFA are similarly at a loss as to how to advise Chesterfield Borough Council in this matter and their respective briefing lines accord with those of DLUHC i.e., it is an unprecedented situation for which there is no statutory provision or 'playbook'.

Heads of Terms of a Financial Rescue Package

- 4.33 Acknowledging DLUHC's expectation of Chesterfield Borough Council's role as the principal authority for the Staveley area (a view that has also been expressed by other national bodies), the council's Chief Executive has developed in consultation with the council's Service Director for Finance and the council's Head of Regulatory Law and Monitoring Officer the Heads of Terms of a Financial Rescue Package for Staveley Town Council. The Heads of Terms are attached at Appendix D to this report.
- 4.34 On 24 January 2023 the Leader of the Council and the council's Chief Executive met with the Leader of Staveley Town Council and Staveley Town Council's Town Clerk to present and discuss the Heads of Terms, as drafted. At the time of writing this report, there has been no feedback from Staveley Town Council as to the acceptability or otherwise of the Heads of Terms. Staveley Town Council's Town Clerk has however listed the Heads of Terms for discussion at a meeting of Staveley Town Council, which is currently scheduled for 13 February 2023.

Approval for Staveley Town Council to incur further borrowing

- 4.35 The draft Heads of Terms have also been shared with DLUHC.

- 4.36 S124 and Schedule 1 Paragraph 2 of the Local Government Act 2003 stipulates that all parish councils need the Secretary of State's approval (in this case DLUHC's Secretary of State) to borrow money, from whatever source. The council's Chief Executive has therefore written to and spoken with Staveley Town Council's Town Clerk about the need for Staveley Town Council to apply as a matter of urgency to DLUHC for approval to take a loan from Chesterfield Borough Council.
- 4.37 As is already referenced in paragraph 4.29, DLUHC officials have confirmed that the PWLB would not entertain lending any further money to Staveley Town Council when it is currently defaulting on its existing PWLB loans.
- 4.38 However, the council's Chief Executive has recently been advised by DLUHC officials that they would be minded recommending in principle that the Secretary of State approves an application received from Staveley Town Council to borrow money from Chesterfield Borough Council. This is based on the Heads of Terms of the financial rescue package which Chesterfield Borough Council has developed and the trust and confidence that DLUHC have in Chesterfield Borough Council seeking to act in the best interests of Staveley Town Council and the households that both councils jointly serve.
- 4.39 Ultimately, it is a matter for DLUHC's Secretary of State to decide and in doing so the Secretary of State might be minded to attach various conditions to the borrowing approval.
- 4.40 The other positive news for Staveley Town Council is that DLUHC officials have also confirmed to the council's Chief Executive that whichever way Chesterfield Borough Council chooses to provide the loan to Staveley Town Council (whether from its cash reserves or through itself taking out borrowing), Staveley Town Council will be able to use the money loaned to it for revenue purposes. DLUHC officials have not come across any restrictions that would prevent this.
- 4.41 DLUHC officials have also advised that there is a window where the Secretary of State or one of his ministers might be able to sign off the approval at the start of the week commencing 20 February 2023, but this is conditional on Staveley Town Council getting their application into DLUHC as soon as practicable.

5.0 Alternative options

- 5.1 The alternative option is for Chesterfield Borough Council not to provide a loan to Staveley Town Council. As is already referenced in Section 3.0 – Reasons for Recommendations, such an action would either result in Staveley households being faced with a massive uplift in their council tax bills (potentially as high as 78%) in return for which they would receive a very much reduced service offer from Staveley Town Council or see Staveley Town Council reduced to a state of dormancy for the foreseeable future with very

limited ability to pay staff and creditors the substantial money that is owed to them and deliver any services at all to Staveley households.

- 5.2 Staveley's residents and businesses have been through a lot in recent years with the coronavirus pandemic, and now the cost-of-living crisis. If Staveley Town Council's staff are to be paid and the deductions made from their wages passported through to HMRC and the Derbyshire Pension Fund; if local companies are to be paid for the services and supplies they have provided in good faith to Staveley Town Council; if Staveley Town Council's business tenants are to remain at Staveley Hall; and if Staveley's households are to receive any level of service from Staveley Town Council, then the only real option is the financial rescue package that Chesterfield Borough Council has developed for Staveley Town Council.

6.0 Implications for consideration – Financial and value for money

Introduction

- 6.1 On 31 January 2023 the council's Service Director for Finance notified Staveley Town Council's Town Clerk that for Chesterfield Borough Council to finalise the loan terms an internal audit would be required to confirm Staveley Town Council's current financial position and measure its ability to set a balanced budget for the financial year 2023/24. This would also be important in demonstrating Staveley Town Council's ability to repay any loan provided to it.
- 6.2 The internal audit has had to be completed at pace. Staveley Town Council's Town Clerk has provided the most up to date information that she holds e.g., Staveley Town Council's draft budget for 2023/24, lists of aged debtors and creditors, and bank statements from April 2022 onwards, and the council's Head of Internal Audit together with one of the council's accountants have spent the best part of 3 days on site at Staveley Hall and off site carrying out the internal audit.

Creditors

- 6.3 The aggregated sum of debts that Staveley Town Council owes to creditors, as of 6 February 2023, stands at £399,749 with £228,946 documented in invoices dating back more than 3 months. The list of aged creditors has had to be taken at face value as there has not been sufficient time to verify that these are all genuine creditors and/or the amounts valid.
- 6.4 Staveley Town Council's Town Clerk has stated that the list of aged creditors comprises "everything that she is aware of" but as Staveley Town Council has historically not used official orders to procure supplies and services, there are concerns that there may be other outstanding invoices still to be received.
- 6.5 The list of aged creditors does not however provide a complete picture of the amounts owed. Staveley Town Council's Town Clerk has therefore provided further details of other monies owed outside the list of aged creditors, as of 6 February 2023.

These are:

• Wages owed to Staveley Town Council staff	£25,966
• HMRC (PAYE deductions taken at source from staff wages)	£64,487
• Derbyshire Pension Fund (relating to pension deductions taken at source from staff wages)	£23,954
• Outstanding PWLB loan repayments	£55,000

Total
£169,437

- 6.6 Again, there has not been sufficient time to validate that these amounts are complete or correct.
- 6.7 When these amounts are added to the aggregated sum of debts that Staveley Town Council owes to creditors i.e., £399,749, the grand total stands at **£569,186**.
- 6.8 There also remains an outstanding issue in relation to Community Infrastructure Levy (CIL) monies. There is the possibility that £25k of the £60k that Staveley Town Council has received since 2018 will either need to be repaid to Chesterfield Borough Council or defrayed on CIL eligible items before the 5-year guillotine on expenditure comes into play. Further work will need to be undertaken to resolve this matter.

Bank Balance

- 6.9 On 13 January 2023 Staveley Town Council's bank balance stood at £322.42 with £0.00 in the Business Select Instant Access account. This renders Staveley Town Council effectively insolvent with no means to pay its creditors.

Debtors

- 6.10 The aggregated sum of monies that debtors owe to Staveley Town Council, as of 6 February 2023, stands at £48,849 with only £4,448 of the sum owed dating back more than 3 months. Staveley Town Council's Town Clerk has however reported that a small number of tenants are behind with their rent and have given notice to quit. It may therefore be difficult for Staveley Town Council to collect all the monies owed to it.

Balance Sheet

- 6.11 The council's accountant has worked with Staveley Town Council's Town Clerk to produce a balance sheet for the financial year ending 31 March 2022. The finalised balance sheet details current cash assets of £47,802, current liabilities of £348,798 and losses of £40,872. The outcome is a carry forward

deficit of £260,124 into the current financial year 2022/23, which is marginally better than the carry forward deficit referenced in Staveley Town Council's Annual Governance Statement for the current financial year. This stood at £263,898 (difference £3,775).

Budget for the financial year 2023/24

- 6.12 Staveley Town Council's carry forward deficit is forecast to increase by a further £277,716 to £541,614 by the end of the current financial year 2022/23. This is primarily due to:
- Staffing costs, which are £100k over the original staffing budget set for the financial year 2022/23.
 - Additional unfunded expenditure of £89,105 on the Staveley Hall Conference and Events Centre project.
 - Operating losses of the order of £55k at the community café.
- 6.13 Staveley Town Council's Town Clerk has now prepared a draft budget for the financial year 2023/24. Assuming the levels of forecast expenditure are controlled, and income projections realised the carry forward deficit is forecast to reduce from £541,614 to £351,462 by 31 March 2024.
- 6.14 The structure of the budget has been discussed with Staveley Town Council's Town Clerk and is based on full implementation of the decisions taken at the 30 November 2022 and 10 January 2023 meetings of Staveley Town Council, including:
- Closing the community café.
 - Reducing the staffing establishment to the bare minimum; the Town Clerk's hours will be reduced from 37 to 25 hours per week and the resources of 1.5 FTE caretakers retained.
 - Transferring the employment of Staveley Town Council's building cleaning staff to an outside agency and reducing costs.
 - Increasing the rents and service charges for the rooms leased to business tenants at Staveley Hall. Note: the draft budget is based on all the available rooms being let to business tenants, which is not currently the case.
 - Renting the bar out at the Speedwell Rooms rather than running the bar with Staveley Town Council staff.
 - Procuring a cheaper contract for the provision of telephony services.
 - Grounds maintenance being carried out for free by a local garden centre.
 - Achieving a refund on apparent overpayments made in relation to gas and electricity supplies during the period of the coronavirus pandemic. Note: these costs will need re-calculating and potentially uplifting again as part of the construct of the budget for the financial year 2023/24.

Matters that the internal audit has not been able to address

- 6.15 It has not been possible to carry out audit checks in relation to bank reconciliation. Whilst Staveley Town Council's Town Clerk has confirmed that weekly bank reconciliations are routinely carried out i.e., where bank statements are cross-referenced to entries in Staveley Town Council's accounts, the Town Clerk was unsure when this was last done as the staff member who carries out this activity has been on sick leave.
- 6.16 It has also not been possible to review payslips or reconcile the amounts paid to staff to Staveley Town Council's bank statements. Whilst Staveley Town Council use a local accountancy firm to run their payroll and payslips are produced, due to Staveley Town Council's financial difficulties, staff have been paid in instalments. As is referenced in paragraph 6.5, as of 6 February 2023, Staveley Town Council staff are owed £25,966.

Cashflow

- 6.17 To calculate the amount of loan funding that Chesterfield Borough Council needs to provide to Staveley Town Council there are two critical factors at play: (a) the amount of funding required for Staveley Town Council to clear its debts and (b) ensuring that Staveley Town Council can remain in a position of cash solvency through the financial year 2023/24.
- 6.18 The council's accountant has therefore worked with Staveley Town Council's Town Clerk to develop a cashflow forecast for the financial year 2023/24. There is further work to be done on this as many of the budget lines within the cashflow forecast are currently based on a uniform month by month allocation of expenditure and income; this is very unlikely to be a true representation of when Staveley Town Council spends money and receives income.
- 6.19 However, given the time constraints and the need for both Staveley Town Council to agree its precept and Chesterfield Borough Council to set the council tax for the borough's households, which the latter is scheduled to do on 22 February 2023, the council's Service Director for Finance in consultation with the council's Head of Internal Audit and Staveley Town Council's Town Clerk has had to come to a considered position on the amount of loan funding required. A maximum loan of £400k is proposed.

Loan terms

- 6.20 The council proposes to fund the £400k loan to Staveley Town Council from the use of reserves, which makes it easier for Staveley Town Council to apply the funds provided for revenue and cashflow purposes.
- 6.21 It is proposed that interest be charged on the loan at 4.4%, which reflects the rate that Chesterfield Borough Council would be charged if it was itself to borrow £400k from the PWLB on a five-year repayment term.

- 6.22 To assist Staveley Town Council to pay its creditors and remain in a position of cash solvency on a month-by-month basis through the financial year 2023/24, it is proposed that the £400k loan is repaid, on an annuity basis, over a five-year term. With interest charged on the loan at 4.4%, the annual loan repayment will amount to approx. £90k per annum. It is also proposed that Staveley Town Council makes the loan repayments in two instalments per annum with the first loan repayment due in September 2023.
- 6.23 To avoid a situation where Staveley Town Council spends the loan in full on receipt, the council's Service Director for Finance will agree in advance with Staveley Town Council's Town Clerk a drawdown plan, which will be based on Staveley Town Council's most up to date cashflow forecast for the financial year 2023/24.
- 6.24 In addition, to offset the risk of Staveley Town Council defaulting on its loan repayments, it is proposed to deduct the amounts due from the precept payments that Chesterfield Borough Council routinely makes to Staveley Town Council (and indeed to all preceptors) in April and September of each financial year.

Securing the loan

- 6.25 It is appropriate that Chesterfield Borough Council's loan should be secured against one or more of Staveley Town Council's assets. In the event of Staveley Town Council defaulting on the loan, it is important that Chesterfield Borough Council is able to recover any amount of loan that has not been repaid to it from the proceeds of sale.
- 6.26 However, any such recovery action would be dependent on the assets against which the loan is secured being of sufficient value to be able to generate enough money to repay the loan in full.
- 6.27 Chesterfield Borough Council has therefore recently commissioned Barlow Property Consultancy to provide an independent open market valuation of Staveley Town Council's two principal assets, namely Staveley Hall and the Speedwell Rooms.
- 6.28 It is hoped that Barlow Property Consultancy's valuation will be received in advance of Chesterfield Borough Council's Council meeting on 22 February 2023, but the initial view of the council's Head of Property and Technical Services is that there should be more than sufficient value in Staveley Hall and the Speedwell Rooms to provide security for a £400k loan.
- 6.29 A full copy of Barlow Property Consultancy's report will be provided to members of Chesterfield Borough Council and to Staveley Town Council on receipt.

Making provision for the loan within the council's financial accounts

- 6.30 Any decision to provide a loan facility would routinely be made based on the ability of an organisation to repay the loan i.e., its financial standing, and appropriate security on an asset to the value of the loan amount. In normal circumstances, providing loan funding to an organisation in financial distress would not be an option. As set out in the report there are significant ongoing concerns in relation to the financial administration of Staveley Town Council. However, there is an expectation that support for a Town Council would come, in the first instance from the principal authority, i.e., Chesterfield Borough Council. It is clear that without a loan the future viability of Staveley Town Council is at risk.
- 6.31 Due diligence has been undertaken on Staveley Town Council's financial statements; however, this has been limited due to the time available and the absence of fully integrated core statements and system reconciliations. Further work will need to be undertaken between the two councils to improve the quality, transparency and accuracy of the financial statements and management information, including the preparation of an integrated cash flow statement, to ensure that the current financial issues are not repeated.
- 6.32 Chesterfield Borough Council's levels of earmarked reserves are estimated to be c£10m in 2023/24. Reserves are an important part of the council's financial strategy and are held to create long-term financial stability. They enable Chesterfield Borough Council to manage change and are a key element of its financial standing and resilience. Chesterfield Borough Council's key sources of funding face an uncertain future and the council therefore holds earmarked reserves and a working balance to mitigate future financial risks. The use of reserves to fund a loan to Staveley Town Council would reduce the balance on reserves to £9.6m.
- 6.34 Whilst the use of reserves to date has been deemed to be affordable, they will now be at a level whereby any significant further use would leave Chesterfield Borough Council exposed to risks and unable to manage potential risks. Chesterfield Borough Council's Medium Term Financial Plan for 2023/24 will be presented to Council on 22 February 2023. The budget is balanced for 2023/24 but with significant gaps of £2.5m in 2024/25 rising to £3.4m in 2026/27. The provision of a loan will increase the level of risk that Chesterfield Borough Council is faced with and reduce its flexibility to mitigate risks and / or provide further support to its budgets in future financial years.

7.0 Implications for consideration – Legal

Members' Interests (Personal, Prejudicial)

- 7.1 Several members of Chesterfield Borough Council are also members of Staveley Town Council ('dual hatted'). Under the Localism Act 2011 and the Member's Code of Conduct ("the Code") these members do not have a disclosable pecuniary interest under the Code. This is because they (and / or

their partners etc.) do not personally have a financial interest – as specified in **The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012** – in the matter to be considered. The Code does not prevent them taking part in any consideration of and / or decision on the matter. Neither do they have a non-Pecuniary interest under the Code.

- 7.2 However, 'dual hatted' members should carefully consider whether they can consider the matter with an open mind, given their membership of the local authority seeking financial support i.e., Staveley Town Council and their membership of the local authority from whom support is being sought i.e., Chesterfield Borough Council, and whom will be deciding whether to give financial support. The question arises ... "would a fair minded and informed observer consider there was a real possibility of bias over their involvement in the matter?" If one or more 'dual hatted' members conclude that they cannot have an open mind on the matter they should not take part and vote.

"General Power of Competence"

- 7.3 In 2011, the Government introduced the Localism Act. Section 1 of the Localism Act includes a 'general power of competence', which effectively gives Chesterfield Borough Council the legal capacity to do anything an individual can do that is not specifically prohibited.
- 7.4 In coming to a view on the reasonableness of Chesterfield Borough Council using its 'general power of competence', Chesterfield Borough Council will need to consider all relevant factors including the benefits of providing a loan to Staveley Town Council compared with the financial cost to the council.
- 7.5 In both Section 3.0 (Reasons for Recommendations) and Section 5.0 (Alternative Options) of the report, the council's Chief Executive has set out what he sees as the benefits of Chesterfield Borough Council providing a financial rescue package in the form of loan funding to Staveley Town Council to Staveley Town Council's staff, creditors, and business tenants, and in Staveley Town Council being able to provide some level of service to Staveley households in the coming financial year 2023/24.
- 7.6 There, however, remains a significant value for money question. Even with a loan of £400k, Staveley Town Council is likely to have to increase its precept i.e., council tax for the coming financial year by at least 10.5% to remain in a position of cash solvency through 2023/24. For a Band A household, this will mean an increase in the share of the council tax that they currently pay per annum to Staveley Town Council of £7.11 from £67.69 in 2022/23 to £74.79 in 2023/24 and for a Band D household an increase of £10.66 from £101.53 in 2022/23 to £112.19 in 2023/24.
- 7.7 By way of comparison a Band A household pays not that much more for all the services that Chesterfield Borough Council provides to the borough's households, including Staveley's households. In 2022/23 a Band A household

paid £119.93 and a Band D household £179.89 for Chesterfield Borough Council services.

- 7.8 As is referenced in paragraph 4.7, Staveley is one of the most deprived communities in the country with income and employment levels, and levels of education, skills and training and health and disability all major areas of concern. And yet Staveley households will be expected to pay £74.79 as a Band A household (and £112.19 as a Band D household) to Staveley Town Council (assuming a 10.5% increase to the precept) in the financial year 2023/24 in exchange for which they will receive a 'bare minimum' level of service provision given the very much-reduced staffing levels referenced in paragraph 6.14.
- 7.9 It is a difficult balance to strike and in the absence of a full-blown community governance review a challenging one for Chesterfield Borough Council to come to a considered opinion on at this juncture. A much fuller picture of all the facts and figures would need to be established and arguments developed, both for and against, to enable the above conversation to be properly explored, communicated, and consulted upon. Given the immediacy of the financial difficulties faced by Staveley Town Council there is not the time to do this.

Legal due diligence and documentation

- 7.10 A process of legal due diligence will need to be advanced ahead of the completion of any loan agreement between Chesterfield Borough Council and Staveley Town Council. As a first step, evidence of an appropriate Council minute confirming Staveley Town Council's agreement to the Heads of Terms of the financial rescue package will be required.
- 7.11 Chesterfield Borough Council has already sourced land registry title information on Staveley Town Council's two principal assets, namely Staveley Hall and the Speedwell Rooms, but this information will need to be cross-referenced with that held by Staveley Town Council.
- 7.12 Following receipt of Barlow Property Consultancy's valuation report, a legal charge document ("the Charge") will need to be prepared setting out the loan terms. On release of the loan funds to Staveley Town Council, the Charge will be completed.

Staveley Town Council's ability to issue a precept

- 7.13 Although a matter for Staveley Town Council, it is felt important that members of Chesterfield Borough Council should also be aware of the implications should Staveley Town Council fail to issue a precept for the coming financial year 2023/24.

- 7.14 S49A of the Local Government Finance Act 1992 governs the issuing of a precept. S49A requires that the local preceptor (in this case Staveley Town Council) makes council tax calculations which will result in a council tax requirement / precept or confirms that the council tax requirement is zero or a negative amount. Should a local precepting authority not issue a precept at any point, then no council tax income is due to the preceptor. It is also the case that the previous financial year's precept does not roll over in lieu of new calculations. Practically, this would mean that Staveley Town Council would receive no income whatsoever from council tax for the financial year 2023/24 if they fail to issue a precept.
- 7.15 Staveley Town Council has been advised of Chesterfield Borough Council's intention, as the billing authority, to set the council tax for the whole of its geography on 22 February 2023. Whether Staveley Town Council can do this is a matter for it to conclude. The latest information from Staveley Town Council's Town Clerk is that Staveley Town Council will meet on 14 February 2023 with a view to agreeing its precept for the financial year 2023/24.

8.0 Implications for consideration – Human resources

- 8.1 As is evident from the various Sections of this report, Staveley Town Council's financial difficulties have resulted in a significant additional workload for several council officers, including the Chief Executive, the Service Director for Finance, the Head of Regulatory Law and Monitoring Officer, and the Head of Internal Audit.
- 8.2 This workload will continue for the foreseeable future depending on whether Chesterfield Borough Council and Staveley Town Council respectively agree to sign up to the Heads of Terms of the financial rescue package, as drafted. If both councils resolve to do so, then work will be needed to ratify the financial rescue package, finalise the terms of the loan agreement, and regularly monitor Staveley Town Council's compliance with the financial rescue package.
- 8.3 Provision has been made within the draft Heads of Terms of the financial rescue package for Chesterfield Borough Council to recover any costs and expenditure that it reasonably incurs in the exercise of its duties and for this sum to be incorporated within the terms of Chesterfield Borough Council's loan agreement with Staveley Town Council and recovered through loan repayments over the same five-year period.

9.0 Implications for consideration – Council Plan

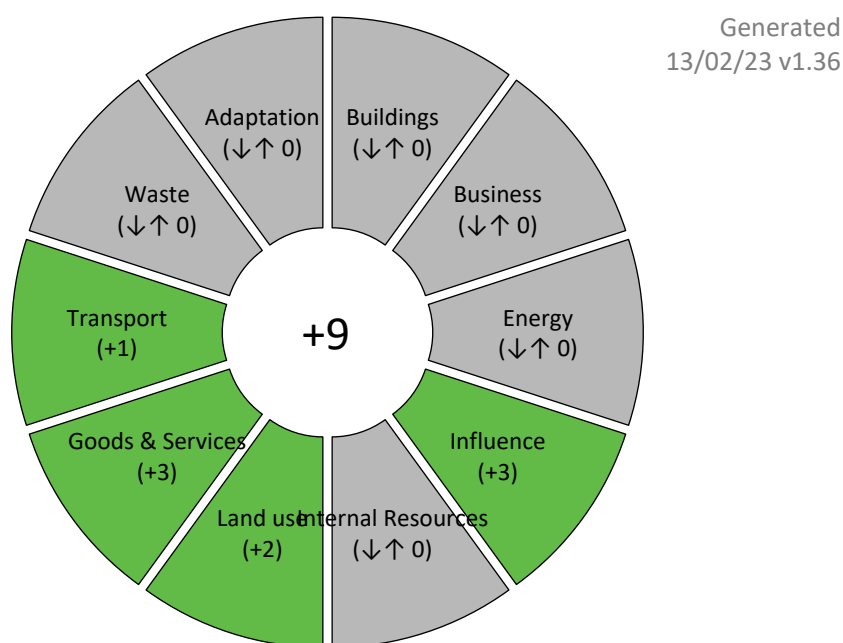
- 9.1 Other than the drain on council resources referenced in Section 8.0 there are no implications for Chesterfield Borough Council in relation to its ability to deliver against the vision, priorities, objectives, outputs, and outcomes that it has set for itself in the next version of the Council Plan for the period 2023

through 2027. The Council Plan will be presented for approval at full Council on 22 February 2023.

9.2 There are no key deliverables within the Council Plan, as drafted, that are contingent on the involvement of Staveley Town Council.

10.0 Implications for consideration – Climate change

10.1 Climate Change impact analysis has taken place. The decision itself has a very limited climate change impact, however there are some positive impacts. Staveley Town Council has a voice and platform within the local Staveley community which has been and can be utilised to communicate and engage on key issues including active travel, shopping local, recycling, biodiversity etc. Staveley Town Council can also have an influence through the procurement of goods and services and supporting local businesses. The provision of services including the outdoor market enhance the shop local message and allotment provision supports sustainable food production and biodiversity.



Chesterfield Borough Council has committed to being a carbon neutral organisation by 2030 (6 years and 10 months away).

11.0 Implications for consideration – Equality and diversity

11.1 Equality analysis has been undertaken. The key concern for Chesterfield Borough Council is avoidance of a very significant (up to 78%) uplift in the Council Tax precept for Staveley residents. The latest Indices of Multiple Deprivation figures indicate that over half of Staveley's lower super output areas are among the 20% most deprived in the country. The biggest single contributing factor for Staveley's deprivation rates is health and disability with 80% of Staveley's lower super output areas falling within the 10% most

deprived in the country. Income levels affecting children and older people are also higher than the average levels found across Chesterfield borough and Derbyshire county. A large increase in Council Tax in Staveley would have a disproportionate impact on several protected groups including people with long-term health conditions and disabilities, and younger and older people.

- 11.2 In addition, there will undoubtedly be staff with protected characteristics directly employed by Staveley Town Council and by the companies that are owed money by Staveley Town Council who are already impacted by Staveley Town Council's inability to pay wages and settle invoices. There will also be business tenants at Staveley Hall with staff and clients with protected characteristics who will similarly be impacted if Staveley Town Council is no longer able to operate; and there will be residents with protected characteristics who in the midst of the current cost-of-living crisis merit the delivery of at least some services from Staveley Town Council.
- 11.3 Staveley Town Council as the tier of local government closest to communities should be able to provide a range of services which enhance the quality of life of local people. It can't do so at the present time. The provision of a loan therefore represents an opportunity for Staveley Town Council to re-establish itself and to again start to deliver services with the potential to have a positive impact in relation to the above-mentioned staff, tenants, and residents.

12.0 Implications for consideration – Risk management

Description of the Risk	Impact	Likelihood	Mitigating Action	Impact	Likelihood
Chesterfield Borough Council and / or Staveley Town Council resolve not to agree to the Heads of Terms of the financial rescue package, as drafted.	Very High	High	<ul style="list-style-type: none"> Further discussions held to iron out points of difference between the two councils. Staveley Town Council opts to set precept at a level that removes the need to borrow money from Chesterfield Borough Council. 	Very High	Medium
DLUHC Secretary of State refuses Staveley Town Council's application to borrow money from	Very High	Medium	<ul style="list-style-type: none"> Chesterfield Borough Council provides further evidence to DLUHC Secretary 	Very High	Low

Chesterfield Borough Council			of State e.g., loan agreement and legal charge documents.		
Staveley Town Council defaults on its loan repayments	Very High	High	<ul style="list-style-type: none"> • Due diligence completed ahead of entering loan agreement • Loan secured against Staveley Town Council assets of an equivalent value • Loan repayments deducted from twice yearly precept payments 	Very High	Low
Staveley Town Council fails to set a precept	Very High	High	<ul style="list-style-type: none"> • Further discussions held with a view to supporting Staveley Town Council to set a precept. 	Very High	Medium

Decision information

Key decision number	1171
Wards affected	Barrow Hill and New Whittington Hollingwood and Inkersall Lowgates and Woodthorpe Middlecroft and Poolsbrook

Document information

Report author	
Huw Bowen, Chief Executive	
Background documents	
These are unpublished works which have been relied on to a material extent when the report was prepared.	
Appendices to the report	
Appendix A	Staveley Town Council – Annual Governance & Accountability Return 2021/22 (dated 10 November 2022)

Appendix B	Letter from Sabrina Doherty, Staveley Town Council's Town Clerk to all Creditors of Staveley Town Council (dated 3 January 2023)
Appendix C	Draft Heads of Terms of Financial Rescue Package