

**CABINET**

**Meeting to be held on 5 June 2013 at 4.30 pm**

**Council Chamber, Williton**

**AGENDA**

**1. Apologies for Absence**

**2. Minutes**

Minutes of the Meeting of Cabinet held on 8 May 2013 to be approved and signed as a correct record – **SEE ATTACHED.**

**3. Declarations of Interest**

To receive and record declarations of interest in respect of any matters included on the agenda for consideration at this meeting.

**4. Public Participation**

The Leader to advise the Cabinet of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public wishing to speak at this meeting there are a few points you might like to note.

A three-minute time limit applies to each speaker and you will be asked to speak before Councillors debate the issue. There will be no further opportunity for comment at a later stage. Your comments should be addressed to the Chairman and any ruling made by the Chair is not open to discussion. If a response is needed it will be given either orally at the meeting or a written reply made within five working days of the meeting.

**5. Forward Plan**

To approve the latest Forward Plan published on 23 May 2013 – **SEE ATTACHED.**

**6. Cabinet Action Plan**

To update the Cabinet on the progress of resolutions and recommendations from previous meetings – **SEE ATTACHED.**

**7. Cabinet Appointments to Outside Bodies**

To appoint representatives to serve on outside bodies for the period to the Annual Meeting in 2014 (except where specific periods are stated) – **SEE ATTACHED.**

**8. Consideration of nominations received to list Assets of Community Value under the Community Right to Bid Legislation**

To consider Report No. WSC 63/13, to be presented by Councillor D J Westcott, Lead Member for Community and Customer – **SEE ATTACHED.**

The purpose of the report is to review nominations received and the recommendations from CMT under the Localism Act 2011 Part 5 – the Community Right to Bid.

**9. Non-Domestic Rates – Section 49 Hardship Relief Policy**

To consider Report No. 54/13, to be presented by Councillor K V Kravis, Lead Member for Resources and Central Support – **SEE ATTACHED.**

The purpose of the report is to update the Council's current policy for the granting of relief from the payment of business rates under Section 49 of the Local Government Act 1988.

**10. Impacts of the Business Rate Retention Scheme**

To consider Report No. 68/13, to be presented by Councillor M Chilcott– **SEE ATTACHED.**

The purpose of this report is to bring to Cabinets attention the results and subsequent recommendations from the work undertaken by a Scrutiny Task and Finish Group set up to look into the potential impact of the new Business rate retention scheme on the Council's financial standing.

**11. Report of the Scrutiny Committee – Planning Obligations and Section 106 Task and Finish Group**

To consider Report No. 67/13, to be presented by Councillor R Lillis – **SEE ATTACHED.**

The purpose of the report is to ask Cabinet to consider the recommendations made by the Scrutiny Committee's Planning Obligations and Section 106 Task & Finish Group and subsequently endorsed by the Scrutiny Committee, as set out in the appended report.

**12. Consultation Responses to the Nuclear Decommissioning Authority's Strategy Paper on optimising the number and location of interim Intermediate Level Waste Storage facilities in England and Wales and Optimising the number and location of FED Treatment (Dissolution) Facilities in Magnox Limited**

To consider Report No. 64/13, to be presented by Councillor C Morgan, Lead Member for Environment – Hinkley Point – **SEE ATTACHED.**

The report sets out the Council's proposed response to the Nuclear Decommissioning Authority's (NDA's) current consultation on Intermediate

Level Waste (ILW) storage options for England and Wales which was launched on 10 May 2013 and closes on 9 June 2013. It also sets out the Council's proposed response to the NDA's current consultation on optimising the number and location of Fuel Element Debris (FED) Treatment (Dissolution) Facilities in Magnox Limited which was also launched on 10 May 2013 and closes on 9 June 2013.

**13. Exclusion of the Press and Public**

To consider excluding the press and public during consideration of Item 14 on the grounds that, if the press and public were present during that item, there would be likely to be a disclosure to them of exempt information of the class specified in Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 as amended as follows:

Item 14 contains information that could release confidential information relating to the financial or business affairs of any particular person (including the authority holding that information). It is therefore proposed that after consideration of all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**14. Sale of Land at Parkhouse Road, Minehead**

To consider Report No. WSC 62/13, to be presented by Councillor K Kravis, Lead Member for Resources and Central Support – **SEE ATTACHED**.

The purpose of the report is to consider the sale of an area of West Somerset Council owned land at Parkhouse Road, Minehead.

**COUNCILLORS ARE REMINDED TO CHECK THEIR POST TRAYS**

**The Council's Corporate Priorities:**

- Local Democracy:  
Securing local democracy and accountability in West Somerset, based in West Somerset, elected by the people of West Somerset and responsible to the people of West Somerset.
- New Nuclear Development at Hinkley Point  
Maximising opportunities for West Somerset communities and businesses to benefit from the development whilst protecting local communities and the environment.

**The Council's Core Values:**

- Integrity
- Respect
- Fairness
- Trust

**RISK SCORING MATRIX**

Report writers score risks in reports uses the scoring matrix below

**Risk Scoring Matrix**

<b>Likelihood</b>	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
<b>Impact</b>							

<b>Likelihood of risk occurring</b>	<b>Indicator</b>	<b>Description (chance of occurrence)</b>
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

- Mitigating actions for high ('High' or above) scoring risks are to be reflected in Service Plans, managed by the Group Manager and implemented by Service Lead Officers;
- Lower scoring risks will either be accepted with no mitigating actions or included in work plans with appropriate mitigating actions that are managed by Service Lead Officers.

**CABINET****MINUTES OF THE MEETING HELD ON 8 MAY 2013****AT 4.30 PM****IN THE COUNCIL CHAMBER, WILLITON****Present:**

Councillor T Taylor ..... Leader

Councillor K V Kravis  
Councillor S J Pugsley  
Councillor K H TurnerCouncillor C Morgan  
Councillor D J Sanders  
Councillor D J Westcott**Members in Attendance:**Councillor H J W Davies  
Councillor J Freeman  
Councillor D D RossCouncillor M O A Dewdney  
Councillor E May  
Councillor M A Smith**Officers in Attendance:**Chief Executive (A Dyer)  
Corporate Director (B Lang)  
Climate Change & Community Liaison Manager (A Lamplough)  
Meeting Administrator (K Kowalewska)**CAB125     Apologies for Absence**

No apologies for absence were received.

**CAB126     Minutes of the Meeting held on 3 April 2013**

(Minutes of the Meeting of Cabinet held on 3 April 2013 - circulated with the Agenda.)

**RESOLVED** that the Minutes of the Meeting of Cabinet held on 3 April 2013 be confirmed as a correct record.**CAB127     Declarations of Interest**

Members present at the meeting declared the following personal interests in their capacity as a Member of a County, Parish or Town Council:

<b>Name</b>	<b>Minute No.</b>	<b>Member of</b>	<b>Action Taken</b>
Councillor D Westcott	All	Watchet	Spoke and voted
Councillor K H Turner	All	Brompton Ralph	Spoke and voted
Councillor H J W Davies	All	County	Spoke

The Leader congratulated Councillor H J W Davies on his recent election as County Councillor and wished him all the best.

**CAB128**     **Public Participation**

No member of the public had requested to speak.

**CAB129**     **Forward Plan**

(Copy of latest Forward Plan published 25 April 2013 – circulated with the Agenda.)

The purpose of this item was to approve the latest Forward Plan published 25 April 2013.

**RESOLVED** that the latest Forward Plan published 25 April 2013 be approved.

**CAB130**     **Cabinet Action Plan**

(Copy of the Action Plan – circulated with the Agenda.)

**RESOLVED** that CAB124 – Commissioning of Property Consultants be deleted as actioned.

**CAB131**     **Request for Allocation of Planning Obligations Funding**

(Report No. WSC 59/13, circulated with the Agenda.)

The purpose of the report was to make a proposal for the allocation of capital monies secured through planning obligations to an individual scheme.

The Lead Member for Resources and Central Support presented this item and outlined the details in the report. She drew Members' attention to the four project proposal options and reported that, following discussions with Somerset County Council, Option 4 was the recommended choice which would enhance the path to an adoptable standard, increase the width of the path and include an upgrade of the lighting columns. An explanation was given as to the funding sources for the project and the Lead Member thanked Minehead Town Council for their contribution of £6,000 which, she pointed out, showed a good example of inter-authority working.

The Lead Member proposed the recommendations contained in the report which were duly seconded by Councillor D J Sanders.

The point was made that the footpath was very well used, however because of its bad condition it gave a poor impression to visitors in the area.

The Climate Change & Community Liaison Manager confirmed that because the work on the land beside Morrisons' car park involved the replacement of cabling and not enhancement work, section 106 monies could not be used to fund the whole project. She also provided an update on timescales and reported that, subject to Council approval, it was envisaged that Somerset County Council (SCC) would work on a design scheme in June (to be verified by West Somerset Council (WSC)) and works would commence over the summer period.

In response to Members' concerns, an assurance was provided that the upmost was being done to increase the path to its maximum width in order to become a dual purpose path which would eventually link up to the Steam Coast Trail, however there were restrictions in certain places which had already been explored with SCC Highways.

Officers were thanked for the work undertaken on the proposals to enhance the footpath.

Subject to Council approving Resolution (4) below, it was

**RESOLVED (1)** that the virement of income to the value of £5,000 to part fund the capital cost of this project (see paragraph 6.1 of the report) be approved.

**RESOLVED (2)** that the commencement of the works to enhance the footpath be subject to the current legal agreement (see paragraph 5.4.4 of the report) between WSC and SCC being amended or replaced to reflect the proposed enhancements and a commitment to the footpath being formally adopted.

**RESOLVED (3)** that the Chief Executive is granted delegated authority to determine whether resolution (2) above has been satisfactorily discharged.

**RESOLVED (4)** that it be recommended to Council that the sum of £35,000 is allocated from the balance of monies held under the Morrisons Development Section 106 Agreement to the Minehead Street Lighting and Cycle Path Project.

## **CAB132 Member Reporting on Membership of Outside Body for Information**

(The following reports were circulated with the Agenda:

- Exmoor Tourism Partnership Report by Councillor D Sanders
- Into Somerset Report by Councillor D Sanders
- Dunster Steering Group by Councillor D Sanders
- LARC Report by Councillor D Sanders
- Leaders Update Report by Councillor T Taylor
- Artlife Report by Councillor D Westcott
- CLOWNS Report by Councillor D Westcott
- Home Start Report by Councillor D Westcott
- Safer Somerset Community Safety Partnership by Councillor D Westcott

**RESOLVED** that the reports on membership of outside bodies be noted.

The meeting closed at 4.55 pm



Weekly version of Forward Plan published on 23 May 2013

Forward Plan Ref / Date proposed decision published in Forward Plan	Date when decision due to be taken and by whom	Details of the proposed decision	Documents and background papers to be available to decision maker	Does the decision contain any exempt information requiring a resolution for it to be considered in private and what are the reasons for this?	Contact Officer for any representations to be made ahead of the proposed decision
FP/13/7/01 25/09/2012	3 July 2013  By Councillor K V Kravis – Lead Member Resources & Central Support	Title: <b>Allocation of Section 106 funds held – Quarter 1</b>  Decision: to make proposals for the allocation of monies secured through planning obligations to individual schemes, and to update members with the current funding position.		No exempt / confidential information anticipated	Ian Timms, Group Manager Housing, Welfare and Economy 01984 635271
FP/13/7/02 25/09/2012	3 July 2013  By Councillor T Taylor – Leader of Council and Councillor K V Kravis – Lead Member Resources & Central Support	Title: <b>Corporate Performance &amp; Budget Monitoring Report 2012-13 – Quarter 4</b>  Decision: to provide Members with an update on progress in delivering corporate priorities, performance of council services including budgetary information and customer satisfaction.		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200
FP/13/7/03 25/09/2012	3 July 2013  By Councillor K V Kravis – Lead Member Resources & Central Support	Title: <b>Review of Financial Regulations [FR2]</b>  Decision: to offer comment on the Financial Regulations.		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200
FP/13/7/04 25/09/2012	3 July 2013  By Councillor K V Kravis – Lead Member Resources & Central Support	Title: <b>Medium Term Financial Plan Update</b>  Decision: to present the updated Medium Term Financial Plan.		No exempt / confidential information anticipated	Section 151 Officer 01984 635253 01823 355482

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FP/13/7/05 13/02/2013	3 July 2013 By Councillor D Westcott – Lead Member for Community and Customer	Title: Consideration of nomination/s received under the Community Right to Bid Legislation  Decision: To approve listing		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200
FP/13/7/08 15/01/2013	3 July 2013 By Councillor D Westcott – Lead Member for Community and Customer	Title: Somerset Major Sports Facilities Strategy and Playing Pitch Assessment  Decision: To approve the Somerset Major Sports Facilities Strategy		No exempt / confidential information anticipated	Steve Watts, Group Manager Environment, Customer and Community 01984 635261
FP/13/7/09 24/04/2013	3 July 2013 By Councillor K V Kravis – Lead Member Resources & Central Support	Title: Supplementary Estimate – Capital and Revenue 2013/14		No exempt / confidential information anticipated	Section 151 Officer 01984 635253 01823 355482
FP/13/7/09 2/05/2013	3 July 2013 By Councillor D Westcott – Lead Member for Community and Customer	Title: Provision of CCTV in Watchet  Decision: to consider the implementation of a CCTV scheme in Watchet		No exempt / confidential information anticipated	Steve Watts, Group Manager Environment, Customer and Community 01984 635261
FP/13/8/01 13/02/2013	7 August 2013 By Councillor D Westcott – Lead Member for Community and Customer	Title: Consideration of nomination/s received under the Community Right to Bid Legislation  Decision: To approve listing		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200
FP/13/9/01	4 September 2013	Title: Consideration of nomination/s received under the		No exempt / confidential information anticipated	Bruce Lang, Corporate Director

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13/02/2013	By Councillor D Westcott – Lead Member for Community and Customer	Community Right to Bid Legislation  Decision: To approve listing			01984 635200
FP/13/10/01 25/09/2012	2 October 2013  By Councillor K V Kravis – Lead Member Resources & Central Support	Title: <b>Allocation of Section 106 funds held – Quarter 2</b>  Decision: to make proposals for the allocation of monies secured through planning obligations to individual schemes, and to update members with the current funding position.		No exempt / confidential information anticipated	Ian Timms, Group Manager Housing, Welfare and Economy 01984 635271
FP/13/10/02 25/09/2012	2 October 2013  By Councillor T Taylor – Leader of Council and Councillor K V Kravis – Lead Member Resources & Central Support	Title: <b>Corporate Performance &amp; Budget Monitoring Report 2013-14 – Quarter 1</b>  Decision: to provide Members with an update on progress in delivering corporate priorities, performance of council services including budgetary information and customer satisfaction.		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200
FP/13/10/03 13/02/2013	2 October 2013  By Councillor D Westcott – Lead Member for Community and Customer	Title: Consideration of nomination/s received under the Community Right to Bid Legislation  Decision: To approve listing		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200
FP/13/11/01 13/02/2013	6 November 2013  By Councillor D Westcott – Lead	Title: Consideration of nomination/s received under the Community Right to Bid Legislation		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200

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	Member for Community and Customer	Decision: To approve listing			
FP/13/12/01 23/11/2012	4 December 2013 By Councillor K V Kravis – Lead Member Resources & Central Support	Title: <b>Review of Financial Regulations [FR2]</b>  Decision: to offer comment on the Financial Regulations.		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200
FP/13/12/02 23/11/2012 Page 12	4 December 2013 By Councillor T Taylor – Leader of Council and Councillor K V Kravis – Lead Member Resources & Central Support	Title: <b>Corporate Performance &amp; Budget Monitoring Report 2013-14 – Quarter 2</b>  Decision: to provide Members with an update on progress in delivering corporate priorities, performance of council services including budgetary information and customer satisfaction.		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200  Page 12
FP/13/12/03 13/02/2013	4 December 2013 By Councillor D Westcott – Lead Member for Community and Customer	Title: Consideration of nomination/s received under the Community Right to Bid Legislation  Decision: To approve listing		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200
FP/14/1/01 18/01/2013	8 January 2014 By Councillor K V Kravis – Lead Member Resources & Central Support	Title: <b>Fees and Charges</b>  Decision: to propose levels of fees and charges for the period 1 April 2014 to 31 March 2015 (in some cases fee increases will be implemented earlier, this will be stated in the relevant sections of the report).		No exempt / confidential information anticipated	Section 151 Officer

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FP/14/1/02 18/01/2013	8 January 2014  By Councillor K V Kravis – Lead Member Resources & Central Support	Title: <b>Allocation of Section 106 funds held – Quarter 3</b>  Decision: to make proposals for the allocation of monies secured through planning obligations to individual schemes, and to update members with the current funding position.		No exempt / confidential information anticipated	Ian Timms, Group Manager Housing, Welfare and Economy 01984 635271
FP/14/1/03 18/01/2013 Page 13	8 January 2014  By Councillor K V Kravis – Lead Member Resources & Central Support	Title: <b>Draft Capital Programme 2013-14 and Capital Strategy</b>  Decision: to present the draft Capital Programme 2013/14 and draft Capital Strategy for recommendation to Council.		No exempt / confidential information anticipated	Section 151 Officer  Page 13
FP/14/1/04 13/02/2013	8 January 2014  By Councillor D Westcott – Lead Member for Community and Customer	Title: Consideration of nomination/s received under the Community Right to Bid Legislation  Decision: To approve listing		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200
FP/14/2/01 18/01/2013	5 February 2014  By Councillor K V Kravis – Lead Member Resources & Central Support	Title: <b>Annual Budget &amp; Council Tax Setting 2014-15</b>  Decision: to provide Members with all the information required for Council to approve the revenue budget and capital programme for 2014/15 for recommendation to Council.		No exempt / confidential information anticipated	Section 151 Officer

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FP/14/2/02 18/01/2013	5 February 2014 By Councillor T Taylor – Leader of Council	Title: <b>Draft Corporate Plan for 2014-15</b>  Decision: to introduce the draft West Somerset Council Corporate Plan 2014/15 for recommendation to Council.		No exempt / confidential information anticipated	Adrian Dyer, Chief Executive 01984 635212
FP/14/2/03 13/02/2013	5 February 2014 By Councillor D Westcott – Lead Member for Community and Customer	Title: Consideration of nomination/s received under the Community Right to Bid Legislation  Decision: To approve listing		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200
FP/14/3/01 1/03/2013	5 March 2014 By Councillor T Taylor – Leader of Council and Councillor K V Kravis – Lead Member Resources & Central Support	Title: <b>Corporate Performance &amp; Budget Monitoring Report 2013-14 – Quarter 3</b>  Decision: to provide Members with an update on progress in delivering corporate priorities, performance of council services including budgetary information and customer satisfaction.		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200
FP/14/3/02 19/03/2013	5 March 2014 By Councillor D Westcott – Lead Member for Community and Customer	Title: Consideration of nomination/s received under the Community Right to Bid Legislation  Decision: To approve listing		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200
FP/14/4/01 19/03/2013	2 April 2014 By Councillor K V Kravis – Lead Member	Title: <b>Allocation of Section 106 funds held – Quarter 4</b>  Decision: to make proposals for		No exempt / confidential information anticipated	Ian Timms, Group Manager Housing, Welfare and Economy 01984 635271

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	Resources & Central Support	the allocation of monies secured through planning obligations to individual schemes, and to update members with the current funding position.			
FP/14/4/02 19/03/2013	2 April 2014  By Councillor D Westcott – Lead Member for Community and Customer	Title: Consideration of nomination/s received under the Community Right to Bid Legislation  Decision: To approve listing		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200
FP/14/5/01 23/05/2013	7 May 2014  By Councillor D Westcott – Lead Member for Community and Customer	Title: Consideration of nomination/s received under the Community Right to Bid Legislation  Decision: To approve listing		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200
FP/14/6/01 23/05/2013	June 2014	Title: <b>Cabinet Appointments on Outside Bodies</b>  Decision: to appoint representatives to serve on outside bodies for the period to the Annual Meeting in 2014 (except where specific periods are stated).		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200
FP/14/6/02 23/05/2013	June 2014  By Councillor D Westcott – Lead Member for Community and Customer	Title: Consideration of nomination/s received under the Community Right to Bid Legislation  Decision: To approve listing		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200

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FP/14/7/01 23/05/2013	July 2014  By Councillor K V Kravis – Lead Member Resources & Central Support	Title: <b>Allocation of Section 106 funds held – Quarter 1</b>  Decision: to make proposals for the allocation of monies secured through planning obligations to individual schemes, and to update members with the current funding position.		No exempt / confidential information anticipated	Ian Timms, Group Manager Housing, Welfare and Economy 01984 635271
FP/14/7/02 23/05/2013 Page 16	July 2014  By Councillor T Taylor – Leader of Council and Councillor K V Kravis – Lead Member Resources & Central Support	Title: <b>Corporate Performance &amp; Budget Monitoring Report 2013-14 – Quarter 4</b>  Decision: to provide Members with an update on progress in delivering corporate priorities, performance of council services including budgetary information and customer satisfaction.		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200  Page 16
FP/14/7/03 23/05/2013	July 2014  By Councillor K V Kravis – Lead Member Resources & Central Support	Title: <b>Review of Financial Regulations [FR2]</b>  Decision: to offer comment on the Financial Regulations.		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200
FP/14/7/04 23/05/2013	July 2014  By Councillor K V Kravis – Lead Member Resources & Central Support	Title: <b>Medium Term Financial Plan Update</b>  Decision: to present the updated Medium Term Financial Plan.		No exempt / confidential information anticipated	Section 151 Officer 01984 635253 01823 355482
FP/14/7/05 23/05/2013	July 2014  By Councillor D Westcott – Lead	Title: Consideration of nomination/s received under the Community Right to Bid Legislation		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200



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	Member for Community and Customer	Decision: To approve listing			

Note (1) – Items in bold type are regular cyclical items.

Note (2) – All Consultation Implications are referred to in individual reports.

The Cabinet comprises the following: Councillors T Taylor, C Morgan, K V Kravis, S J Pugsley, D J Sanders, K H Turner and D J Westcott.

The Scrutiny Committee comprises: Councillors K J Ross, R Lillis, M J Chilcott, M O A Dewdney, G S Dowding, J Freeman, P N Grierson, B Heywood and D D Ross.



### CABINET ACTION PLAN

Date/Minute Number	Action Required	Action Taken
<p><b>8 MAY 2013</b></p> <p>CAB131 – Request for Allocation of Planning Obligations Funding</p>	<p><b>RESOLVED (4)</b> that it be recommended to Council that the sum of £35,000 is allocated from the balance of monies held under the Morrisons Development Section 106 Agreement to the Minehead Street Lighting and Cycle Path Project.</p>	<p>At the Annual Council meeting held on 15 May 2013, it was <b>RESOLVED</b> that the sum of £35,000 be allocated from the balance of monies held under the Morrisons Development Section 106 Agreement to the Minehead Street Lighting and Cycle Path Project.</p>



**CABINET APPOINTMENTS (by virtue of office)**

<b>ORGANISATION</b>	<b>INFORMATION</b>	<b>REPS 2012/13</b>	<b>REPS 2013/14</b>
Somerset Cultural Forum	Meets 4-6 times a year. Need not be a Portfolio Holder.	Lead Member for Community and Customer – Councillor D Westcott Leader – Councillor T Taylor	
ARTlife	Meets 6 times a year. A Deputy can be appointed.	Lead Member for Community and Customer– Councillor D Westcott Deputy: B Heywood	
CLOWNS	Meets 6 times a year.	Lead Member for Community and Customer– Councillor D Westcott	
South West Councils Employers Panel	Portfolio Holder (HR) or Leader. Meets twice a year in the South West.	Lead Member for Resources & Central Support – Councillor K V Kravis Deputy Leader – Councillor C Morgan	
LGA General Assembly	Normally the Leader and Deputy Leader.	Leader – Councillor T Taylor Deputy: Councillor C Morgan	
Somerset Strategic Leaders Board		Leader – Councillor T Taylor	
South West Councils	Meets twice a year to discuss issues and offer opinions. One vote only.	Leader – Councillor T Taylor Deputy Leader – Councillor C Morgan	
SPARSE	Meets quarterly.	Councillor S J Pugsley	
Dunster Working Group	Meets as and when required, not more than 2 or 3 times per year.	Lead Member for Regeneration and Economic Growth – Councillor D J Sanders	
Williton Regeneration Forum	Meets 4 times a year.	Councillors H J W Davies, E May, D Sanders and K H Turner	
West Somerset Strategic Partnership		Leader – Councillor T Taylor	
The Community Council for Somerset – Village Halls Committee	Need not be portfolio holder. Meets 4 times a year in Taunton.	Lead Member for Community and Customer – Councillor D Westcott	
Watchet Harbour Advisory Committee	Quarterly meetings.	Councillor A F Knight Deputy: Councillor D J Westcott	

Somerset Waste Board	Quarterly Board meetings.	Lead Member for Environment – Councillor C Morgan Lead Member for Resources & Central Support – Councillor K V Kravis Deputy: Councillor A H Trollope-Bellew	Councillor A Trollope-Bellew Councillor M Dewdney
Safer Somerset Partnership		Lead Member for Community and Customer – Councillor D Westcott	
Local Action for Rural Communities (LARC)	Meets approx' ten times per year	Councillor D Sanders	
Into Somerset (Inward Investment)	Meets approx' six times per year	Councillor D Sanders	
Exmoor Tourism Partnership	Meets approx six times per year	Councillor D Sanders	
LGPS Pensions Committee	Meets approx. six times per year		
Somerset Nuclear Energy Group (SNEG)		Councillor T Taylor – Leader Councillor C Morgan – Deputy Leader Councillor D J Sanders – Lead Member for Regeneration & Economic Growth Councillor S Y Goss	

*Report Number:* WSC 63/13  
*Presented by:* Cllr D Westcott, Lead Member for Community & Customer  
*Author of the Report:* Bruce Lang, Corporate Director  
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*Report to a Meeting of:* Cabinet  
*To be Held on:* 5 June 2013  
*Date Entered on Executive Forward Plan Or Agreement for Urgency Granted:* 13/02/2013

## CONSIDERATION OF NOMINATIONS RECEIVED TO LIST ASSETS OF COMMUNITY VALUE UNDER THE COMMUNITY RIGHT TO BID LEGISLATION

### 1. PURPOSE OF REPORT

- 1.1 To review nominations received and the recommendations from CMT under the Localism Act 2011 Part 5 – The Community Right to Bid.

### 2. CONTRIBUTION TO CORPORATE PRIORITIES

- 2.1 Whilst the subject of this report does not specifically relate to either of the council's Corporate priorities, the council has a duty to comply with the requirements of the Localism Act 2011.

### 3. RECOMMENDATIONS

- 3.1 It is recommended that Cabinet:
- 3.1.2 Accept the nomination [ACV022] for Church Street Public Conveniences, Dunster as an Asset of Community Value, received 26.4.13.

### 4. RISK ASSESSMENT (IF APPLICABLE)

#### Risk Matrix

Description	Likelihood	Impact	Overall
The key risk is reputational in that the council considered not to have dealt with the matter appropriately	3	3	9
<i>Approved processes in place. CMT considering the nomination and Cabinet determining the nomination. Scrutiny to undertake any internal reviews requested by the land/building owner</i>	1	3	3

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before the mitigation measures have been actioned and after they have.

## **5. BACKGROUND INFORMATION**

The Localism Act 2011 places requirements on the council to maintain a list of land/buildings in its area that it considers land of community value. The Community Right to Bid provides the right to nominate land/buildings as Assets of Community Value.

Nominations are initially evaluated by the Corporate Management Team (CMT) who makes a recommendation for Cabinet to determine. The Chief Executive is excluded from this process to enable this officer to support any review process in accordance with the requirements of the legislation. This process must be completed within 8 weeks of the nomination being received. CMT considered the nomination that is the subject of this report on 20<sup>th</sup> May 2013.

- 5.1 Under the relevant regulations it is clear that if a land/building is in the local authority's area, is nominated by a 'relevant body', is not an excluded land/building type and meets the definition of community value then the local authority must list it and inform the interested parties.
  - 5.2 A 'relevant body' is defined as a parish council, a voluntary/community body, a neighbourhood forum or a community group with 21+ local members.
  - 5.3 An excluded land/building type is defined as a wholly residential property including associated land and a residential caravan park.
  - 5.4 If the asset is accepted for nomination, the owner has the right to request an internal review by the council. If the owners remain in disagreement with the listing following the review, they have a right to appeal to an independent tribunal
- If an asset that is owned by a local authority is accepted for listing there is no right to request a review.
- 5.5 Once an asset has been listed nothing further happens until the owner decides to sell the land/building unless an exemption applies. The owner will only be able to dispose of the asset after 6 weeks unless an expression of interest is received from a community group to be treated as a potential bidder. If the council receives an expression of interest, then the full 6 months moratorium applies, providing the community with time to prepare a bid.
  - 5.6 If a planning application is submitted regarding a land/building that has been listed as an asset of community value, the listing will be a material consideration when the planning authority determines the application.
  - 5.7 The decision to list a building or land as an asset of community value must be based on section 88 of the legislation, *'In the opinion of the authority':- The actual current use of the building or other land that is not ancillary use further the social well-being or social interest of the local community and it is realistic to think that there can continue to be use of the building/land which further the social well-being or social interest of the local community (whether or not in the same way). Or*

*There is time in the recent past when an actual use of the building or other land that was not ancillary use furthered the social well-being or social interest of the local community and it is realistic to think that in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way) the social well-being or social interest of the local community.*



*Social interests includes (in particular) each of the following:–*

- (a) cultural interests*
- (b) recreational interests*
- (c) sporting interests*

5.8 Listing Nomination for **Church Street Public Conveniences, Dunster**

A nomination application has been received to list the Church Street Public Conveniences, Dunster as an Asset of Community Value. The building is presently owned by the Council.

The nomination was received from a relevant body – Dunster Parish Council. Church Street Public Conveniences as public toilets is not in any of the excluded categories.

The information submitted is considered to support the definition as an asset of community value, furthering the social wellbeing or social interest of the local community and it is therefore recommended that the Church Street Public Conveniences be listed as such.

Summary to inform the recommendation/decision

- The public toilets, before they were closed, provided visitors to the village the opportunity to stay in Dunster and enjoy the commercial and social activities available

*Public Conveniences - given that the Act talks about assets which promote social interests (in particular, sporting, recreational and cultural interests), a public convenience could well be said to facilitate access to the same. But as ever this is a matter for you at the local level.*

- Public toilets do not specifically fit into the social wellbeing, cultural, recreational, sporting definition; it is their value to provide a supporting facility to other community facilities in the vicinity that is considered of value.

See [Appendix A] for supporting information provided by the parish council.

Listing land/buildings as an asset of community value proves community groups and town/parish councils with the right to bid for an asset and provides 6 months to prepare and submit that bid. It does not provide a 'right to buy' nor 'first refusal'.

This nomination if accepted, does not entitle the parish council to have first refusal to take over the running of the toilets with the freehold transfer as referred to in their supporting information provided.

**6. FINANCIAL/RESOURCE IMPLICATIONS**

- 6.1 If the asset is accepted for listing, the council need to register the restriction with the Land Registry, the costs associated with this is estimated at £50 per property.
- 6.2 If the Building/land is put up for sale and the Assets of Community Value moratorium applies, the owner can make a claim to the council for compensation. The council are liable for compensation costs up to £20,000 in any financial year; this can be from a number of small claims or a single large claim. Any compensation costs over the £20,000 will be covered by DCLG.

**7. SECTION 151 OFFICER COMMENTS**

- 7.1 A sum of £20,000 to cover potential compensation claims has been included in the draft Medium Term Financial Plan in accordance with the Council's request.

**8. EQUALITY & DIVERSITY IMPLICATIONS**

**Members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process.**

The three aims the authority **must** have due regard for:

- Eliminate discrimination, harassment, victimisation
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

8.1 The Assets of Community Value policy offers greater opportunities for community involvement in the consideration of community assets, potentially leading to increased community benefit.

**9. CRIME AND DISORDER IMPLICATIONS**

9.1 None in respect of this report.

**10. CONSULTATION IMPLICATIONS**

10.1 In accordance with the requirements of the Localism Act 2011- Part 5 and the council's agreed process, the owner of the property being nominated and the local parish council are given notice of the nomination application. The council will also notify the relevant member/s, whose ward the property being nominated is within.

10.2 The council will notify the relevant body that submitted the nomination, the owner, parish council and ward member/s of the decision to list the property as an asset of community value. If the nomination is unsuccessful, the council must provide the relevant body that made the nomination with the council's reasons for its decision.

10.3 In accordance with the requirements of the Localism Act 2011- Part 5, the council must maintain a list of assets of community value and a list of assets nominated unsuccessfully. These lists will be published on the council's website and made available for free inspection by any person at the council's offices in Williton and Minehead.

**11. ASSET MANAGEMENT IMPLICATIONS**

11.1 None specific to the nominations being considered in this report.

**12. ENVIRONMENTAL IMPACT IMPLICATIONS**

12.1 None in respect of this report.

**13. LEGAL IMPLICATIONS**

13.1 This report arises from the council needing to put in place processes to ensure that it fulfils its obligations under the provisions of the Localism Act 2011.

## Section 3 - SUPPORTING INFORMATION FOR THE NOMINATION

**3. What are the reasons for nomination this land/building for consideration as an asset of community value?**

Please provide as much information as possible, including how the asset furthers the social well-being or social interests (including cultural, recreational, sporting interests) of the community.

Dunster Parish Council feel these are a Community Asset and used regularly by church users and whenever there is an event in the Gardens.

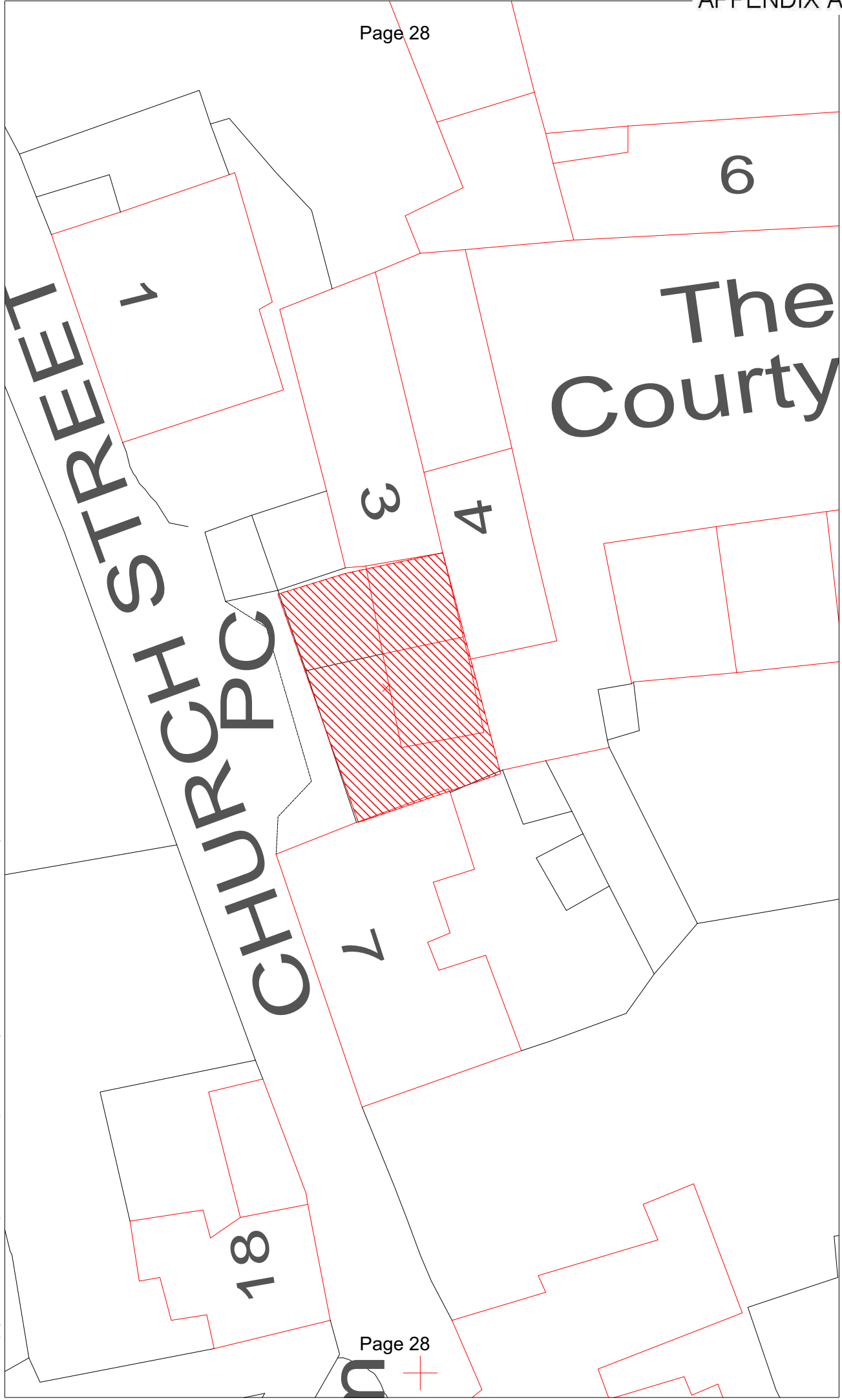
Just this last weekend, everyone rehearsing for the St Georges Day Parade in the village, asked where the nearest toilets were, and a great many of these are children (Guides, Scouts etc) who cannot wait for long periods.

I believe the Church expressed an interest in taking them over but it would prove very expensive for them to run the Toilets.

There are N.T. toilets situated on Castle Hill but these are not open all the time and elderly people cannot manage the Hill.

The Parish Council feel that keeping these as a Community Asset would greatly benefit the village and the whole community.

Till Dermitjes  
Clerk to Dunster  
Parish Council



*Report Number:* WSC 54/13  
*Presented by:* Cllr. K Kravis, Lead Member Finance & resources  
*Author of the Report:* Adrian Dyer, Chief Executive  
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*Report to a Meeting of:* Cabinet  
*To be Held on:* 5<sup>th</sup> June 2013  
*Date Entered on Executive Forward Plan Or Agreement for Urgency Granted:* 4<sup>th</sup> April 2013

## NON-DOMESTIC RATES – SECTION 49 HARDSHIP RELIEF POLICY

### 1. PURPOSE OF REPORT

- 1.1 The purpose of the report is to update the Council's current policy for the granting of relief from the payment of business rates under Section 49 of the Local Government Act 1988.

### 2. CONTRIBUTION TO CORPORATE PRIORITIES

- 2.1 The recommendations in this report, if implemented, will not contribute to the delivery of the Council's Corporate Priorities.

### 3. RECOMMENDATIONS

Cabinet recommend to Council that:

- 3.1 That the details and procedures of the new scheme outlined in paragraph 5.3, including **Appendix A** are approved and adopted from 1<sup>st</sup> July 2013.
- 4.1 That the Councils Financial Regulations and Constitution are updated to reflect the new governance arrangements.

### 4. RISK ASSESSMENT (IF APPLICABLE)

#### Risk Matrix

Description	Likelihood	Impact	Overall
<b>Risk</b> - The key risk is financial in that the current scheme is prescriptive in the calculation of relief granted and bears no relation to the Councils own financial standing	Possible (3)	Moderate (3)	Medium (9)
<i>Mitigation – The scheme should be more subjective and flexible.</i> <i>Mitigation – The awarding of relief should be approved by Cabinet, based on a recommendation from the section 151 officer, and be reflected in the budget</i>	Unlikely (2)	Minor (2)	Low (4)

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before the mitigation measures have been actioned and after they have.

## **5. BACKGROUND INFORMATION**

### **5.1 General Background Information**

- 5.1.1 The Council has a discretionary power under Section 49 of The Local Government Finance Act 1988 to reduce or remit the payment of non-domestic rates on the grounds of hardship.
- 5.1.2 As a billing authority, West Somerset Council (WSC) has to be satisfied that the ratepayer would suffer hardship if it did not agree to reduce the payment of rates. Additionally it has to be demonstrated that it is reasonable to do so having regard to the interest of its Council Tax payers.
- 5.1.3 Central Government had provided guidance to help billing authorities decide whether to grant relief. From this it was clear that the reduction or remission of rates on grounds of hardship should be the exception rather than the rule.
- 5.1.4 Prior to 1<sup>st</sup> April 2013, 75% of the cost of any reduction or remittance of rates could be offset against the Council's payment into the National Non-Domestic Rate pool. The other 25% would be borne locally by Council Tax payers and met from the authority's General Fund. Since 1<sup>st</sup> April 2013, and the introduction of the 'Business Rate Retention Scheme', the Council fund 20% of the amount of relief granted. Because of the Council's circumstances in relation to the Business Rate Retention Scheme in that it pays a levy the government fund 70%, Somerset County Council 9% and Devon & Somerset Fire & Rescue 1% of the remainder.

### **5.2 Current Scheme**

- 5.2.1 The Council's current 'Hardship Relief' scheme has remained unchanged since 2005 and it is considered that a review is overdue. The essence of the current scheme is such that an application which is supported by the necessary documented evidence is scored by officers against a set of approved criteria. The actual score determines the percentage of relief granted.
- 5.2.2 A copy of the current scheme as approved is attached at **Appendix 'B'**

### **5.3 New Proposed Scheme**

- 5.3.1 It is proposed that the following new procedures are introduced for all applications received from 1<sup>st</sup> July 2013: -
  - (a). All applications for Hardship relief must be made in writing using a prepared form designed by the Revenues service to ensure that all the information which is considered important to the decision making process is captured.
  - (b). All applications must be accompanied by a copy of the last two years accounts which must include a Profit and Loss Account and a Balance Sheet, a projected income and expenditure for the next 12 months and any other information in support of the application.
  - (c). The process detailed below should ensure that proper and consistent consideration is given to all applications, the financial implications are considered and members have the final say in deciding on, and financing, any awards.
  - (d). Applications will initially be received within the Revenues and Benefits unit where they will be examined for completeness.
  - (e). Where the application is not complete the Revenues service will contact the ratepayer to seek any missing information or seek clarification where it is necessary. The application will not be considered further until it is complete.

- (f). The Revenues service will consider each complete application on its merits and the Head of Revenues and Benefits Service will make a written recommendation to the Section 151 Officer whether to reject the application or whether to make an award.
- (g). In making either recommendation, the Head of Revenues and Benefits Service will consider the following:
  - The goods or services provided by the applicant and the closeness of alternative suppliers;
  - Whether the goods or services are mostly provided to customers within the District or tourists;
  - Any social benefits provided by the applicant;
  - Local employment provided by the applicant;
  - The causes of the hardship;
  - The applicant's attempts to mitigate the hardship;
  - The impact of Rates as a % of overall business expenses;
  - Whether the business is viable; and
  - Whether it is in the interests of the Council Tax payers within the District to provide the 20% cost of any hardship relief awarded.
- (h). Where a recommendation to reject the application is made, adequate reasons should be put forward.
- (i). Where a recommendation to approve the application is made, the recommendation should detail:
  - The period to be covered by the award
  - The social benefit to the Council Tax payers in the award being made
  - The amount of the award
  - The sum to be met by the general fund.
- (j). The authority to **decline** applications for hardship relief is delegated to the Section 151 Officer.
- (k). Where the Section 151 Officer decides there is sufficient merit in awarding hardship relief a recommendation will be made to Cabinet who will have the delegated power to decline or award hardship relief following referral of an application by the Section 151 Officer. **Where it supports the recommendation, Cabinet will also need to the make the necessary budget arrangements to meet the commitment.**

5.3.2 A paper containing draft guidance notes and the application form for potential claimants is included at **Appendix A**.

#### **5.4 Key Changes in the Proposed New Scheme**

5.4.1 The key enhancements in the proposed scheme are:

- (i) It is more prescriptive in the supporting documentation required, placing a higher emphasis on the claimant to prove real hardship.
- (ii) There is a greater emphasis put on being able to demonstrate that financial assistance would be in the interests of council tax payers in the district.

- (iii) The method of determining the amount of hardship relief to be granted is more subjective and therefore more flexible.
- (iv) The governance arrangements have been strengthened so that the ultimate decision to award hardship relief, and consequently make a budgetary provision, rests with member of Cabinet.

**6. FINANCIAL/RESOURCE IMPLICATIONS**

- 6.1 There are no direct financial implications associated with the recommendations in this report. However, what they do is strengthen the governance arrangements surrounding a specific type of financial transaction

**7. SECTION 151 OFFICER COMMENTS**

- 7.1 These are contained within the body of the report.

**8. EQUALITY & DIVERSITY IMPLICATIONS**

**Members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process.**

The three aims the authority **must** have due regard for:

- Eliminate discrimination, harassment, victimisation
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

- 8.1 There are no direct implications associated with the recommendations in this report

**9. CRIME AND DISORDER IMPLICATIONS**

- 9.1 There are no direct implications associated with the recommendations in this report

**10. CONSULTATION IMPLICATIONS**

- 10.1 There are no direct implications associated with the recommendations in this report

**11. ASSET MANAGEMENT IMPLICATIONS**

- 11.1 There are no direct implications associated with the recommendations in this report

**12. ENVIRONMENTAL IMPACT IMPLICATIONS**

- 12.1 There are no direct implications associated with the recommendations in this report

**13. LEGAL IMPLICATIONS**

- 13.1 There is no legal obligation on the Council to have an effective Hardship relief Scheme.



## **Hardship Relief - Proposed Scheme**

### **Guidance notes for completing an application for hardship relief Section 49 of the Local Government Finance Act 1988**

West Somerset Council will consider applications from business ratepayers for a discount in rates because of hardship under Section 49 of the Local Government Finance Act 1988.

Before approving any discounts West Somerset Council must be satisfied the rules contained in paragraphs 2(a) and 2(b) of Section 49, have been met. A set of criteria have been devised to assess the application against the rules and this is shown below. Each application for relief will be considered on its merits, the particular circumstances of the applicant and considering:

#### **Section 49 – 2(a): The ratepayer would sustain hardship if the authority did not do so (for example grant a discount or remission).**

There must be evidence of hardship and West Somerset Council will consider the extent of hardship, not the ratepayer.

West Somerset Council must judge, by examination of the accounts for the business and any other documentation considered reasonable for the applicant to supply, that the ratepayer will suffer hardship by not granting relief.

Would any discount secure the future of the business?

#### **Section 49 – 2(b): It is reasonable for the authority to do so (for example grant a discount or remission) having regard to the interests of people subject to its council tax.**

What would be the effect on the locality if the business stopped trading: would the loss of the business be harmful to providing the services, and would unemployment or employment prospects substantially worsen?

What would be the effect on the council taxpayers by increasing council tax bills to cover the costs of a discount?

Are there other suppliers in the area?

For the cost of any relief granted, the Council Taxpayers have to find 20%.

The 'interests' of the Council Taxpayers may go wider than direct financial interests. Non-financial interests may concern an area for example, by the loss of the only shop in a village. To grant relief on a business, it must be of significant value to the local community.

Hardship applications are confined to the financial year in which it is made and intended as a short-term support to a business experiencing temporary difficulties. It is unlikely relief will be granted for an empty property or where there is little expectation of economic survival.

Relief will not be awarded for periods where the rates have already been paid.

Hardship relief cannot to be used as a financial prop for a failing business.

Each application will be judged on its own merit and West Somerset Council will not be bound by decisions made by other billing authorities.

# Application for relief from National Non-Domestic Rates under Section 49 Local Government Finance Act 1988 due to hardship

If there is not enough space to answer any question please use a separate sheet of paper.

**1. Name of applicant:**

**2. Contact address:**

Telephone number: \_\_\_\_\_ E-mail address: \_\_\_\_\_

**3. Address to which this application relates:**

Do you own this property or is the business the leaseholder?  Owner  Leaseholder

**4. Type of organisation:**

Sole Trader	<input type="checkbox"/>	Public limited Company	<input type="checkbox"/>
Partnership	<input type="checkbox"/>	Limited Liability Partnership	<input type="checkbox"/>
Private Limited Company	<input type="checkbox"/>		

**5. Is the business receiving (or requesting) financial assistance from any other source? If 'Yes' please provide details.**

**6. What goods, services or amenities does your business provide?**

**7. How far is it between your business and the nearest alternative business providing the same, or substantially similar, goods, services or amenities?**

**8. Are most of your goods, services or amenities provided to customers / clients within the District of West Somerset?**

Yes  No

**9. How long has this business been established?**

**10. Are there any aspects of your business that have direct social benefits?** (For example provision of home deliveries, meeting places for groups, provision of employment for disadvantaged individuals, and the provision of apprenticeships).

**11. How many permanent staff (not agency / casuals) are employed by your business?**

Part-Time  Full-Time

**12. What percentage of the staff referred to in 11, live in the area of West Somerset?**

Fewer than 25%  Between 25% and 50%  Between 50% and 75%  Greater than 75%

**13. What percentage of your overall business expenditure (rent, wages, utility charges, raw materials etc.) do the rates for the property identified in 3 represent?**

%

**14. What particular circumstances are causing (or will cause) hardship?**

(For example, the loss of key clients, failure of a key creditor to pay for goods or services provided, withdrawal of overdraft facilities, calling in of a loan, inability to obtain sufficient credit, weakness of sterling, strength of other currencies etc.).

**15. How are these circumstances affecting (or will affect) your business?**

**16. How long do you expect these difficulties to have a significant effect on your business?**

**17. What steps has your business taken to remain viable in light of these difficulties? (For example what have you done to reduce costs or increase income?)**

**18. What help are you looking for from the Council regarding your rates for this property?**  
We need to know for what period you are seeking relief and what percentage you are requesting.

**19. How will your business be affected if we are unable to award this relief?**

**20. Does the business have any other debts which may result in a creditor taking action to enforce payment or commence insolvency proceedings? If 'Yes' please provide details.**

**21. Is there any other information you feel we should take into account when processing your application?**

**Please give details:**

## Supporting Documents

All applicants must provide documentary evidence in support of their claim.

Evidence of financial hardship must include: a copy of the last two years audited accounts for the business. If the business has traded for less than two years, you should supply all available financial information since the commencement of trading;

A projected income and cash flow for the next 12 months;

Applicants that are not limited companies should provide details of any other income or benefits that they receive as well as all personal capital held (for example equity in freehold/ leasehold properties, shares held, savings etc.);

Any other information in support of your application.

Your application will not be considered if you do not provide the above information.

## Declaration

I/we have enclosed the relevant documentation as requested and certify that to the best of my/our knowledge the information I/we have given is accurate and true.

I/we agree to inform the Council if circumstances relating to this application change.

I/we agree / do not agree (*please delete as appropriate*) to this application being shared within the Council in order to establish if any additional assistance can be provided to your business.

Signed:

Date:

Name (in block capitals):

Capacity in which signing:

Please return this form to: **Revenues and Benefits Service, West Somerset Council, West Somerset House, Killick Way, Williton, Taunton, Somerset TA4 4QA**

## **Hardship Relief – Current Scheme**

### **Hardship**

A billing authority may:

- reduce any amount of the rates payable; or
- remit payment of the whole of the amount.

Provided the billing authority is satisfied that:

- the ratepayer would sustain hardship if the authority did not do so, and
- it is reasonable for the authority to do so, having regard to the wider interests of its local taxpayers.

As with the Discretionary Charity Relief the authority appear to have an unfettered discretion but must act reasonably and take into account the conditions above. Since the council must establish whether hardship would be sustained it follows that determination can only be made on an individual claim basis and an overall policy would not be appropriate in this instance.

### **Hardship - General Rules**

The then Department of the Environment (responsibility for NNDR now lies with the Office of the Deputy Prime Minister) issued guidance on the use of discretion in these circumstances and suggest the following criteria should be noted:

- Although authorities may adopt rules for the consideration of hardship cases, they should not adopt a blanket policy either to give or not to give relief: each case should be considered on its own merits.
- Reduction or remission of rates on grounds of hardship should be the exception rather than the rule.
- The test of 'hardship' need not be confined strictly to financial hardship: all relevant factors affecting the ability of a business to meet its liability for rates should be taken into account.
- 75% of the cost of any reduction or remittance of rates can be offset against an authority's payment into the National Non-Domestic Rate pool: 25% must be borne locally and met from the authority's General Fund.
- The 'interests' of local taxpayers in an area may go wider than direct financial interests. For example, where the employment prospects in the area would be worsened by a company going out of business, or the amenities of an area might be reduced by, for instance, the loss of the only shop in a village.
- Where the granting of relief would have an adverse effect on the financial interests of local taxpayers, the case for a reduction or remission of rates payable may still on balance outweigh the cost to local taxpayers.

### **Hardship - financial implications**

The cost of any relief granted will be met by offsetting 75% against the authority's contribution to the National Non-Domestic Rate pool. The remaining 25% must be met by the local taxpayers out of the General Fund.

If on the other hand the firm is put into liquidation, either because of the demand for Business Rates, or any other reason, then the Rates become a loss on collection and as such are wholly allowable against the contribution to the National pool.

As with determinations for Discretionary Rate Relief, it is important that the authority takes reasonable steps in exercising its discretion under section 49 of the Local Government Finance Act 1988, and that each application is decided on its own merits.

*Local Guidance/Procedures*

- Applications to be scored by Principal Revenues Officer and Revenues, Benefits and Debt Recovery Manager by reference to application form and accounts received (missing/additional documentation should be requested as soon as possible)
- Use scoring form as below in Rate Relief Policy (available under Revenues & Benefits Service Guide).
- Add detailed information to spreadsheet for approval by Section 151 Officer (available under Revenues & Benefits Service Guide).
- Section 151 Officer to scrutinise accounts and other supporting documentation as well as Officer's scoring and justification comments.
- Any amendments/action necessary should be forwarded to Principal Revenues Officer and Revenues, Benefits and Debt Recovery Manager as soon as possible.

**PROPOSED NON-DOMESTIC RATE DISCRETIONARY RELIEF SCHEME**

Applications for hardship relief under Section 49 of the Local Government Finance Act 1988 be determined in respect of retrospective years only. Applications must be supported by audited accounts covering the period of the application in order to demonstrate hardship. The percentage of hardship granted, to a maximum of 80%, be determined by reference to the degree that the application meets the criteria contained.

## SCORING FORM

### GUIDELINES FOR DETERMINING THE PERCENTAGE OF DISCRETIONARY RATE RELIEF FOR ORGANISATIONS THAT QUALIFY FOR HARDSHIP RELIEF

Name of Business.....

Address.....

Rateable Value.....

#### FOR OFFICE USE ONLY

	CRITERIA	POINTS (0 – 5)	JUSTIFICATION FOR POINTS
1	<p><b>Is basis for application consistent with accounts and business plan projection?</b> Complete consistency between reason for application and underlying records will attract 5 points. Fewer points will be allocated in proportion to lack of consistency.</p>		
2	<p><b>To what extent will rate reduction enable business to continue to trade?</b> Hence if full rate reduction enables business to survive then 5 points allocated. If less than 100% reduction will enable business to continue then less points to be given.</p>		
3	<p><b>To what extent will support of application enable business to provide continued employment in West Somerset?</b> How many persons will benefit from continued employment? Hence if rate reduction will enable significant job retention then 5 points to be allocated. Less significant work generation will attract fewer points.</p>		
4	<p><b>Will discontinuance of business adversely affect West Somerset residents due to loss of valued service or supply of goods?</b> A significantly adverse impact will attract 5 points. If the business provides a less significant service then fewer points will be allocated.</p>		
	<b>TOTAL SCORE</b>		

<b>Points awarded</b>	<b>0</b>	<b>1-4</b>	<b>5-9</b>	<b>10-14</b>	<b>15-20</b>
<b>Percentage relief granted</b>	<b>0%</b>	<b>20%</b>	<b>40%</b>	<b>60%</b>	<b>80%</b>



*Report Number:* WSC 68/13  
*Presented by:* Cllr. Mandy Chilcott, Member of Scrutiny task & Finish Group  
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*Report to a Meeting of:* Cabinet  
*To be Held on:* 5<sup>th</sup> June 2013

*Date Entered on Executive Forward Plan Or Agreement for Urgency Granted:* Agreement of Chair of Scrutiny Committee 20<sup>th</sup> May 2013

## **IMPACTS OF THE BUSINESS RATE RETENTION SCHEME**

### **PURPOSE OF REPORT**

- 1.1 The purpose of this report is to bring to Cabinets attention the results and subsequent recommendations from the work undertaken by a Scrutiny Task and Finish Group set up to look into the potential impact of the new Business rate retention scheme on the Council's financial standing.

### **CONTRIBUTION TO CORPORATE PRIORITIES**

- 2.1 The work undertaken by the Task & Finish Group will contribute significantly to the delivery of Key Task 2.3 which is to "Understand the impact that business rate retention has on the Medium Term Financial Plan (MTFP), monitor regularly and report this impact to members."

### **RECOMMENDATIONS**

Scrutiny Committee request that Cabinet consider implementing the following recommendations:

- 3.1 That the quarterly performance report presented to Scrutiny Committee and Cabinet should include table 1 but containing up to-date figures and estimates. This would clearly show any variance in the estimated Net Yield, highlight the reasons for the variance and subsequently any change in the amount of business rates that the council could expect to retain.
- 3.2 That In order to assess the strategic financial impact of any variation the quarterly performance report should contain an updated MTFP that not only reflects the impact of any variation in business rate retention but also any other known amendments.
- 3.3 That the quarterly performance report should also include an aged debtors report similar to that shown in table 4 above.
- 3.4 That a process is established to enable the revenues team to be aware of all planning and licensing applications where it is thought that what is planned will have an impact upon the rating list.

- 3.5 That details of any individual write-off that is in excess of £1,000 are forwarded to the local ward member(s) for their information and possible comment. (Write Offs in excess of £5,000 require Cabinet approval)
- 3.6 That the Valuation Officer is invited to provide both relevant staff and all members with training on issues pertaining to business rate liability.

#### 4. **RISK ASSESSMENT (IF APPLICABLE)**

##### **Risk Matrix**

<b>Description</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Overall</b>
<b>Risk</b> - Business Rate income is volatile and hard to predict and under the new scheme this volatility will impact on the MTFP making financial planning more difficult and possibly less accurate.	Likely (4)	Major (4)	<b>High (16)</b>
<b>Mitigation</b> – (1) regular monitoring of net rate yield and subsequent amount of retention (2) closer liaison between the Council & the Valuation Office to establish the estimated level of appeals (3) at the appropriate time reconsider the issue of creating a 'Pool' in order to spread the volatility risk	Possible (3)	Major (4)	<b>Medium (12)</b>

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before the mitigation measures have been actioned and after they have.

#### 5. **BACKGROUND INFORMATION**

As part of its work plan Scrutiny Committee established a Task and Finish Group to review the impact that the new Business Rate Retention Scheme was going to have on the finances available to the Council. The following paragraphs replicate their subsequent report that was presented to Scrutiny Committee on 20<sup>th</sup> May 2013, whilst paragraph 2 lists the recommendations put forward by Scrutiny Committee for consideration by Cabinet.

One request from Scrutiny Committee that is not included in its recommendations is their wish to formally record their thanks to the following members of the Task and Finish Group for their hard work in producing their report. Members of the Task and Finish Group included Councillors - K Ross, M Chilcott, M Dewdney, G Dowding and D Ross.

In order for the Task and Finish Group to begin to identify any specific risks and/or impacts on the finances of the Council it was essential to understand how the new scheme functions, the differences between it and the previous regime and the general implications for local government financing as a whole. These issues are summarised in paragraphs 5.1 to 5.6 below.

##### **Previous System**

- 5.1 Within the previous system the Council was the billing authority and simply acted as a collection agency. Business Rate bills were issued and the income generated was paid, in its entirety to Central Government and the National Pool. It was then redistributed across the whole public sector as core funding. The vehicle for this allocation and redistribution was the Local Government Finance Settlement and Revenue support Grant (RSG) using a complex formulae methodology. This clearly resulted in the income being received by Councils having no relationship to what is actually happening with regard to their local business and commercial tax base.

### **Rationale for Change**

- 5.2 It could be claimed that the system as described above provides no benefits or rewards for growing the area's business tax base which may in turn land the council with additional costs in respect of providing additional services to new companies. The Department for Communities and Local Government (DCLG) stated that the purpose of the new scheme is to give councils more freedom and flexibilities with stronger incentives to increase the number of businesses in its area. It is intended that the scheme rewards councils by allowing them to keep, and benefit from, increase rates collection by retaining a percentage of the additional income resulting from tax base growth.
- 5.3 The above rationale presents the overall principles on which the change has been introduced. The practical application and detailed system is, however, more complex and crucially includes restrictions and limits on the financial swings, both upwards and downwards, that such a fundamental change in policy can bring about for individual organisations.

### **How the New Scheme Works**

- 5.4 The new system is described below to illustrate the stages of calculating the revised level of income the council can expect to receive. Table 1 turns this process into reality by showing the results of the calculations in respect this council.
- a. As with the previous system the council issues bills for Business Rate income due.
  - b. The net yield is calculated by deducting reliefs, write offs, refunds and a small number of other disregards from the gross amount that could be collected.
  - c. 50% of the net yield is paid to Central Government to be incorporated into the Revenue Support Grant funding regime
  - d. The remaining 50% retained by the council is then split 80%/18%/2% with the 80% share being retained by the council, 18% going to the County Council and 2% to the Fire & Rescue Authority.
  - e. From this point on in the calculation a mechanism of adjustments are applied to (a) protect local authorities who are disproportionately financially worse off and (b) reduce the income of councils who are significantly better off.
  - f. The cash value of the council's share is compared to an amount that Central Government has predetermined the council requires based on net yields of business rates in previous years.
  - g. If the council's retained amount exceeds this predetermined amount it has to be paid over to Central Government in the form of a **Tariff**
  - h. Conversely if the amount is less, the council will receive a **Top-Up** payment
  - i. This predetermined level of income contains an assumed level of growth in year one. If the council grows its tax base in excess of this assumed level and receives a greater amount of income a **Levy** of 50% will be placed on the additional income gained and paid to Central Government. This, in effect places a limit on the amount the council is able to benefit from as a result of tax base growth.
  - j. If the council, however, suffers a loss of income due to decline in the tax base there is a level of loss that triggers a **Safety Net** payment.
- 5.5 Central Government will use the current statutory business rates data submission forms returned by councils to administer the system. Form NNDR1 which is forward looking and is used to forecast movements in the tax base and income to be collected. Regular payments to Central Government, County Council and Fire & Rescue Authority are made during the year based on this form. Form NNDR3 is a backward looking return of actual income due and collected and as such is externally audited. Any necessary adjustment to the amounts

paid to Government, County Council and Fire & Rescue Authority are made based on this information.

**Summary of Draft NNDR1 Form 2013/14 – Table 1**

<b>Gross Yield</b>		<b>£14,543,929</b>
Less Deductions:		
Refunds	£2,000,000	
Write-Off's	£100,000	
Mandatory Relief	£1,670,351	
Discretionary Relief	£203,372	
Other Deductions	£183,001	£4,156,724
<b>Net Yield [Step b.]</b>		<b>£10,387,205</b>
Amounts Retained		
Government (Central) Share (50%) [Step c.]	£5,193,603	
WSC Share (80% of 50%) [Step d.]	£4,154,882	
SCC Share (18% of 50%) [Step d.]	£934,848	
Devon & Somerset Fire & Rescue Share (2% of 50%) [Step d.]	£103,872	<b>£10,387,205</b>
<b>WSC Retained</b>		£4,154,882
Less: Tariff to Government (fixed amount) [Step f. / g.]		£2,922,502
Sub Total		£1,232,380
Less: WSC Baseline Funding (fixed amount)		£1,050,663
Gross Retention		£181,717
Less: Maximum 50% Levy Payment to Government [Step i.]		£90,859
<b>NET AMOUNT RETAINED BY WSC</b>		<b>£90,859</b>

The amount retained of £1,232,380 together with the levy payment of £90,859 has been built into the 2013/14 budget within the MTFP.

**Key Risks and Impacts facing Local Government as a Whole**

5.6 The new regime clearly has significant implications for councils in terms of both funding levels and also medium term financial planning. Councils will now be significantly exposed to a much greater level of risk from business and commercial stagnation, decline and possibly even a slow rate of growth. All councils will need to identify new ways of working in managing the business tax base within their local areas with strategic issues such as:

- Processes to forecast future growth or decline in the business tax base
- Understanding the impact of not achieving forecasted growth on future core funding
- Assessing the cost / benefit of managing and supporting existing businesses in order to maintain the existing tax base
- Understanding the impact of decision making where policies may influence business rate income levels

**Risks and Impacts in Relation to West Somerset Council**

5.7 The Task and Finish Group met on 27<sup>th</sup> February 2013 and the notes from that meeting are included at **Appendix 'A'**. A number of significant factors in determining forecasts of future business rate income were identified and included appeals / refunds, additions and deletions to the rating list, significant changes to mandatory and discretionary reliefs and finally collection rates in so much as they influence the necessity for write-offs.

5.8 Appeals and Refunds

5.8.1 Successful rating appeals not only reduce the on-going rateable value of properties but also result in refunds in most cases going back to 1<sup>st</sup> April 2010 (date of last revaluation) but in some cases 1<sup>st</sup> April 2005. So in 2013/14 in most cases a successful appeal will result in business rates refunds for 2010/11, 2011/12 and 2012/13 as well as a permanent reduction in the tax base from 2013/14.

5.8.2 The Valuation Office Agency (VOA) in November each year sends every council a list of outstanding appeals in their area. **Table 2** below summarises the data received last November which shows that, excluding Hinkley Point, almost a quarter of the current rateable value is under appeal. It's impossible to accurately predict how many appeals will be successful in the same way as it is the amount each assessment successfully appealed against will be reduced by. However, based on a successful national appeals rate of 30% and an average reduction of say 20% on each successful appeal the reduction in income would amount to approximately £137,045. This would mean that the on-going amount of business rates retained by the council would reduce by some £27,410 p.a.

**Summary of Appeals Outstanding at 31<sup>st</sup> October 2012 - Table 2**

Valuation List	Number of Outstanding Appeals	Rateable Value of Properties under Appeal	% of Total Rateable Value (Including Hinkley Point)	% of Total Rateable Value (Excluding Hinkley Point)
2005 List	19	£405,450	1.3%	2.0%
2010 List	82	£4,506,580	14.4%	22.2%
Total	101	£4,912,030	15.7%	24.2%

5.8.3 In addition the successful appeals also generate refunds and using the same assumptions referred to in paragraph 5.8.2 above could total £467,695 (excluding Hinkley Point), the council's share being £93,539.

5.8.4 As members have been made previously aware an appeal against the 2010 rating list has been lodged by the operators of Hinkley Point Power Station which has a rateable value of 11,180,000. A reduction of 20% would, over the three years in question equate to approximately £3.16m, whereas a 10% reduction would total £1.58m

5.8.5 The VOA have recognised both the important role they can have in assisting councils to forecast future variations in the business rate tax base and the knock on impact on levels of core funding. The VOA website states - *"The VOA is developing specific support for the implementation of the Business Rates Retention Scheme (BRRS) in the Local Government Finance Act (2012). A dedicated team of relationship managers is available to work with local authorities in support of the BRRS"*. An initial meeting with the councils Relationship Manager was held on 15<sup>th</sup> April 2013 which proved very useful. Issues discussed included:

- Details of statistical information for local authorities on the VO website and the fact that significant improvements to the website were being launched in May this year.
- A greater understanding of the appeals list referred to in paragraph 5.8.2 above. In particular an understanding of the codes used to differentiate the reasons for appeal. This information will prove useful when estimating the value of potential refunds.
- The benefit to be gained from making sure that all businesses that should be included on the rating list actually are. To help achieve this it was agreed that the revenues and planning teams needed to agree processes for close working together. It was also suggested that the Valuation Office would be prepared to provide some training to staff and members on the types of businesses that should be included on the list.

For example only if horse's stables are located within one mile of the associated residential property are they exempt from business rates.

- It was also explained that the release of detailed information on individual appeals was not permitted under legislation.

5.8.6 In terms of the councils MTFP it has been assumed that refunds in 2013/14 will, including that in respect of Hinkley Point total £2.0m. This compares with that calculated in paragraphs 5.8.3 and 5.8.4 of £3.628m or £2.048m depending on the scale of the reduction in the rateable value of Hinkley Point. In subsequent years a figure of £500,000 has been included in the MTFP which compares favourably with the figure of £467,695 referred to in paragraph 5.8.3 above. As a contingency against the prospect of having to part fund significant unknown refunds in future years the MTFP shows amounts being transferred from General Fund Reserves into an earmarked reserve.

5.8.7 In future years the MTFP assumes that any growth in the tax base will counter balance any reduction as a result of appeals.

#### 5.9 Additions and Deletions to the Rating List

5.9.1 It will be important in the future to monitor through the planning system any proposed new commercial developments. Conversely it will be equally as important to monitor through the actual business rates system the number of businesses going into receivership or administration. Overall in terms of financial planning it is anticipated that any future new developments will be offset by deletions elsewhere.

5.9.2 The risk of potential significant negative volatility is increased because of the fact that there are five businesses whose liability to pay business rates equalled 18% of the total Net Yield. If Hinkley Point is added as a sixth business then this percentage increases to approximately 50%.

#### 5.10 Mandatory and Discretionary Reliefs

5.10.1 The cost of all mandatory relief was previously funded by Central Government whilst they also funded between 25% and 75% of discretionary reliefs granted, depending on the category of relief. The amount of discretionary business rate relief granted to local businesses and organisations in 2012/13 was about £203,000 compared to a cost to the Council of approximately £60,000.

5.10.2 Under the new regime all types of relief are accounted for as one of the reductions to the gross yield of business rates to arrive at the net yield figure. This means that the cost to the council of granting either mandatory or discretionary relief is 20% of the total relief granted. Therefore assuming the amount of discretionary relief remains similar in 2013/14 the cost to the council will have reduced to £40,600. However, the cost to the council of granting mandatory relief totalling £1,670,000 is £334,000, compared to nothing under the previous system.

5.10.3 This does of course mean that the cost of any new relief granted be it discretionary or mandatory, which is outside the control of the council, will be 20p for every £1.00 granted.

5.10.4 The council's previous discretionary rate relief scheme which finished on 31<sup>st</sup> March 2013 was recently extended until 31<sup>st</sup> March 2014. Under the scheme there is provision to grant temporary relief from paying business rates on the grounds of proven 'hardship'. The amount of relief awarded is dependent upon the extent that certain criteria are met. This element of the overall scheme has not changed for a number of years and it is therefore proposed to undertake a review with the aim of reporting to members in June this year.

5.10.5 The government have indicated that additional funding would be to local authorities should they introduce new types of mandatory relief.

### 5.11 Collection of Business Rates

5.11.1 Now that part of the cost (20%) of write-off's is borne by the council the profile of the process for collecting business rates and recovering unpaid overdue amounts has inevitably been increased. The Task and Finish Group homed in on this issue and identified a number of key issues for consideration. These are explained further in the following paragraphs.

5.11.2 In terms of the percentage of business rates collected in the year that they are due table 3 below compares the Council's performance at a local, regional and national level.

**Business Rates – Percentage In-Year Collection Rates Table 3**

	Receipts 2010/11 (%)	Receipts 2011/12 (%)	Direction of Travel
<b>ENGLAND</b>	98.0	97.8	↓
<b>SHIRE DISTRICTS</b>	98.4	98.3	↓
<b>SOUTH WEST REGION</b>	98.1	97.7	↓
<b>SOMERSET</b>			
Mendip	98.7	98.9	↑
Sedgemoor	98.7	97.8	↑
Taunton Deane	99.0	99.2	↑
South Somerset	97.0	97.7	↑
West Somerset	98.2	98.0	↓
<b>DEVON</b>			
Mid Devon	99.9	98.6	↓
North Devon	97.8	97.8	↔
West Devon	97.4	97.4	↔
<b>DORSET</b>			
Christchurch	98.3	97.6	↓
Purbeck	98.2	98.0	↓
West Dorset	98.1	98.0	↓
Weymouth and Portland	98.6	96.3	↓

Bearing in mind the limited capacity the Council has to collect and recover business rates the collection compares well with a lot of others.

5.11.3 A comparison of West Somerset Council's recovery procedures with that of neighbouring authorities that replied is included at **Appendix 'A'**. It should be noted that certain parts of the recovery process are governed by regulation. Billing and Collection of the National Non Domestic Rates is governed by the Non Domestic Rating List (Collection and Enforcement) (Local Lists) Regulations 1989.

These regulations state:

- That if you do not pay your instalments on the due date a reminder notice will be issued.
- If the missed payment(s) are not then paid within 7 days you will lose the right to pay monthly and the total remaining charge will become due and a summons may be issued without further warning as the initial reminder notice is sufficient warning to the ratepayer to make continued payments
- If, after receiving a reminder, you then bring your instalments up to date but subsequently fall behind again, you will be issued with a final reminder and the whole remaining debt will then become due within 7 days.
- Failure to pay then may result in a summons being issued.

The flow charts in **Appendix A** reflect a very similar recovery programme is applied in Sedgemoor DC and West Somerset Council, probably not surprising bearing in mind the regulations referred to above. One of the main differences is that Sedgemoor issue Summonses without issuing Final Notices - this is to weed out blatant non payers at an early stage. This strategy works for Sedgemoor because they have to take debtors to court almost on a monthly basis due to the high number of cases they have. It is known that Sedgemoor DC employ more resource into recovery of debts, maybe because they have to in order to maintain collection rates, which coincidentally were slightly better than the Councils in 2010/11 but slightly worse in 2011/12. As far as Bailiffs are concerned both authorities use Ross & Roberts and Bristow & Sutor.

- 5.11.4 Linked to the above it was felt that it would be informative for members to be given an idea of how old elements of the overall debt were. In response Table 4 below suggests the format of a proposed 'aged debtors' report.

**Aged Debtors Report – Table 4**

<b>Business Rates Liabilities @ 1 April 2013</b>							
<b>Year</b>	<b>Total Net Liability</b>	<b>Costs Raised</b>	<b>Gross Amount Collectable</b>	<b>Write Offs</b>	<b>Net Amount Collectable</b>	<b>Balance Outstanding</b>	<b>% Outstanding</b>
2000-08	£116,813,912	£21,483	£116,835,396	£373,405	£116,461,991	£19,700	0.017%
2009	£7,609,605	£4,311	£7,613,916	£81,196	£7,532,720	£9,313	0.124%
2010	£8,508,170	£4,059	£8,512,229	£47,419	£8,464,810	£26,346	0.311%
2011	£9,408,275	£3,374	£9,411,649	£67,893	£9,343,756	£63,447	0.679%
2012	£10,509,075	£3,095	£10,512,170	£5,779	£10,506,391	£255,296	2.430%
	<b>£152,849,037</b>	<b>£36,322</b>	<b>£152,885,360</b>	<b>£575,692</b>	<b>£152,309,668</b>	<b>£374,102</b>	<b>0.246%</b>
2013	£11,714,215		£11,714,215		£11,714,215	£11,714,215	100.000%
	<b>£164,563,252</b>	<b>£36,322</b>	<b>£164,599,575</b>	<b>£575,692</b>	<b>£164,023,883</b>	<b>£12,088,317</b>	<b>7.370%</b>

As an Addendum to the table we would hope to further analyse the current year balance outstanding to show the value of debt that was at or beyond the 'final reminder' stage.

- 5.11.5 The Task & Finish Group requested that the legal issues surrounding publishing lists of business in arrears be investigated. The immediate response from the Councils legal advisors was that this may be challengeable under both the Data Protection Act but also the 'Right to Privacy' regulations contained within the Human Rights Act.

5.12 Conclusions (for consideration)

- 5.12.1 Appeals & Refunds – Appeals and any subsequent refunds have a significant impact on the Councils finances. Accurately predicting what the value of refunds will be in the forthcoming year is not virtually impossible but is totally impossible. This makes the task of financial planning in the medium term very difficult. It is suggested that when officers and members consider the MTFP they will should to take account of the above points.

- 5.12.2 Additions & Deletions to the Rating List – The opportunity to attract major new businesses into the district, are for well documented reasons, remote. It maybe that effort is best applied to maintain the existing rating list and ensuring that all businesses that should be on the rating list actually are. This will not have a significant impact as most businesses in West Somerset are small.

- 5.12.3 Mandatory & Discretionary Reliefs – This is an area is where the cost is difficult to control. Indeed the amount of existing Mandatory Reliefs granted and subsequent cost is totally outside of the Councils control. It is suggested that the amount of discretionary relief granted is monitored to enable a decision to be made as to whether the scheme itself should be amended.



5.12.4 Collection of Business Rates – Bearing in mind the limited resources available collections rates compare remarkably well both with other local authorities and nationally. The area that can impact on the Councils finances is write-offs the total of which are relatively low when compared to the total amount collectable. It would appear that recovery is best achieved where the procedures and processes are tailored to suit local circumstances

## **6. FINANCIAL/RESOURCE IMPLICATIONS**

6.1 The objective of this report is to highlight the financial risks associated with the new Business Rate Retention Scheme and to suggest initiatives that minimise any adverse impacts

## **7. SECTION 151 OFFICER COMMENTS**

7.1 As the National Non-Domestic Rates (NNDR) collection rates directly impact on the Authority's revenue budget position it is vital that debts are actively managed to minimise the need to write off debts,

7.2 A regular performance report will help highlight the importance of this area of revenue and help to ensure that any variations are investigated in a timely manner.

7.3 Whilst the report refers to Business Rates please note that the scheme covers all Non-Domestic Rates including premises such as beach huts and schools.

## **8. EQUALITY & DIVERSITY IMPLICATIONS**

**Members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process.**

The three aims the authority **must** have due regard for:

- Eliminate discrimination, harassment, victimisation
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

8.1 There are no direct implications associated with the recommendations in this report

## **9. CRIME AND DISORDER IMPLICATIONS**

9.1 There are no direct implications associated with the recommendations in this report

## **10. CONSULTATION IMPLICATIONS**

10.1 There are no direct implications associated with the recommendations in this report

## **11. ASSET MANAGEMENT IMPLICATIONS**

11.1 There are no direct implications associated with the recommendations in this report

## **12. ENVIRONMENTAL IMPACT IMPLICATIONS**

12.1 There are no direct implications associated with the recommendations in this report

**13. LEGAL IMPLICATIONS**

- 13.1 Although there are no implication associated with the recommendations in this report. A legal opinion was sought on the possibility of publicising a list of businesses whose rate accounts were in arrears and by how much. The opinion was that not only could this be in breach of Data Protection rules but could also be an infringement of the right to privacy under the Human Rights Act.

**Scrutiny Task and Finish Group****Business Rate Retention****Notes of the Meeting held on 27 February 2013**

In Attendance:

Councillor K R Ross  
Councillor M J Chilcott  
Councillor M O A Dewdney  
Councillor G S Dowding  
Councillor D D Ross  
Chief Executive, A Dyer  
Principal Recovery Officer, S Perkins  
Meeting Administrator, K Kowalewska

The focus of the meeting was to identify the potential wider financial impacts of Business Rate Retention and to examine the processes necessary so that negative impacts were minimised and positive impacts maximised.

The Chief Executive explained that the introduction of the Business Rate Retention Scheme meant that there would be a major change in the way in which West Somerset Council received funding from central government and would have a significant impact on the budget and the Medium Term Financial Plan.

Currently West Somerset Council as billing authority collected business rates on behalf of central government. However, under the new scheme the billing authority would retain 50% of the income locally (a percentage of this amount would be distributed amongst Somerset County Council (18%) and Devon & Somerset Fire & Rescue (2%)), with the remaining 50% going to central government. To limit the amount that could be benefited by local authorities, a tariff and a levy would be imposed, payable to central government, and the Chief Executive reported that efforts would be made to calculate the anticipated tariff rate. WSC would also be liable for a percentage of the unrecovered business rates.

When considering the implications of the scheme it was highlighted that the Local Council Tax Support Scheme should also be taken into account as both schemes had huge economic impacts on the Council.

During the discussion the following main points were raised:

- The tariff should be challenged on the grounds of West Somerset's rural locality and lack of expanding business opportunity.
- The findings of the Task and Finish Group would help to provide evidence that rural authorities were underfunded, and it was suggested that these results could be submitted to SPARSE.
- The Principal Recovery Officer reported that less than 100 business rate summons were issued in a financial year which was small in comparison to the 1800+ accounts held by WSC. 50% of these summons cases paid before the court hearing date.
- West Somerset was reliant on 6 or 7 large businesses which made up 30% of the total value of business rates collected.
- The amount of business rates payable was dependent on the rateable value of the premises. However, Hinkley Point power station paid on rate of production and because

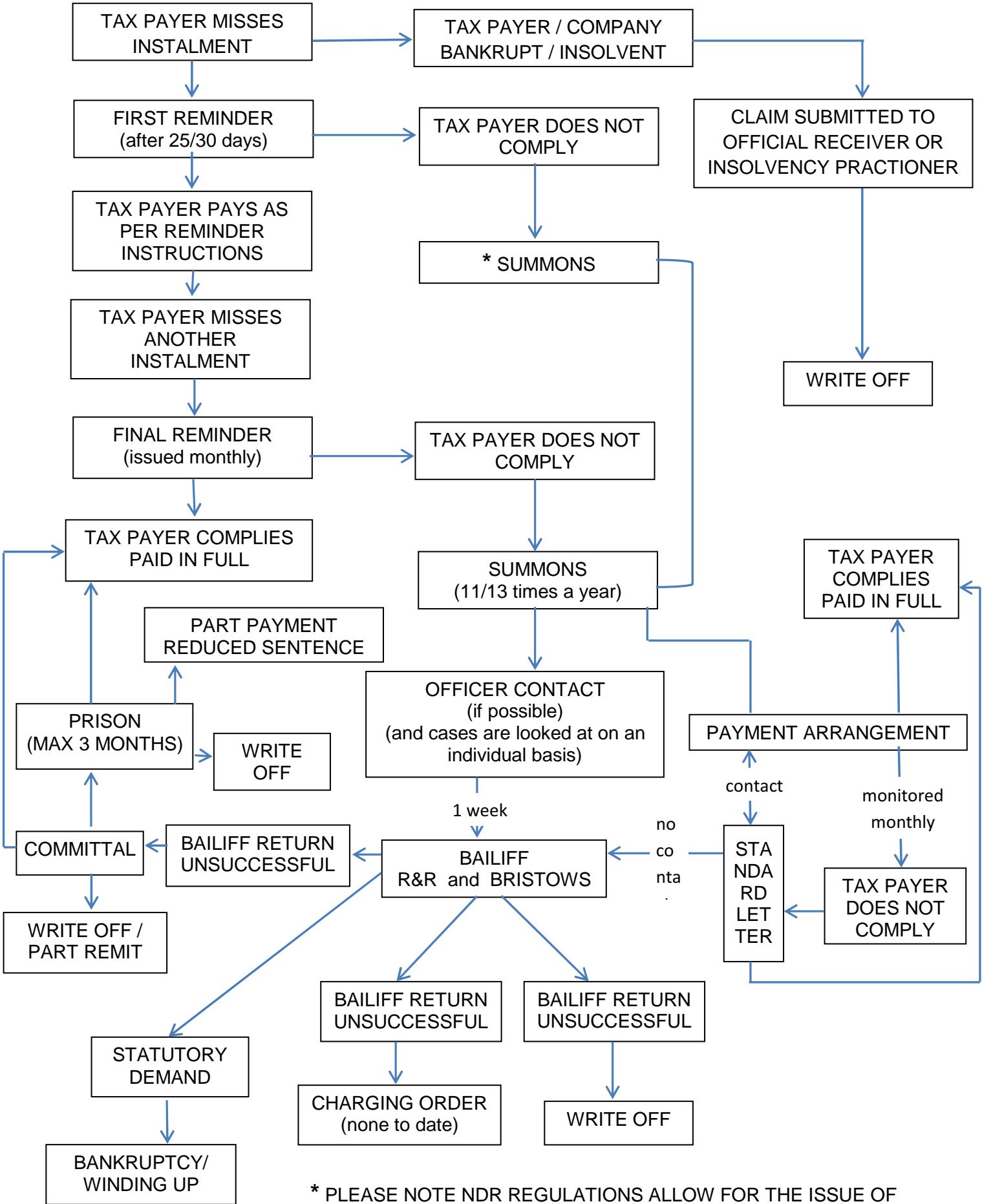
of this the Council would maintain an earmarked reserve to cover the maximum liability for any refunds payable to them.

- The Council had a full recovery process in place but resources were limited. There was provision in the MTFP New Burdens Funding to provide additional capacity.
- Due to the future financial implications that write-offs potentially pose on the new business rate retention a purge on uncollectable business rate debts had already been carried out and this would be an on-going process up until 31 March 2013. In accordance with the Financial Regulation the Section 151 Officer would authorise all write-offs under £5,000 and Cabinet would authorise all write-offs over £5,000.
- WSC needed to be resilient to ensure that the local economy did not decline.
- A process of monitoring business rates was necessary to identify movements and trends.

Actions:

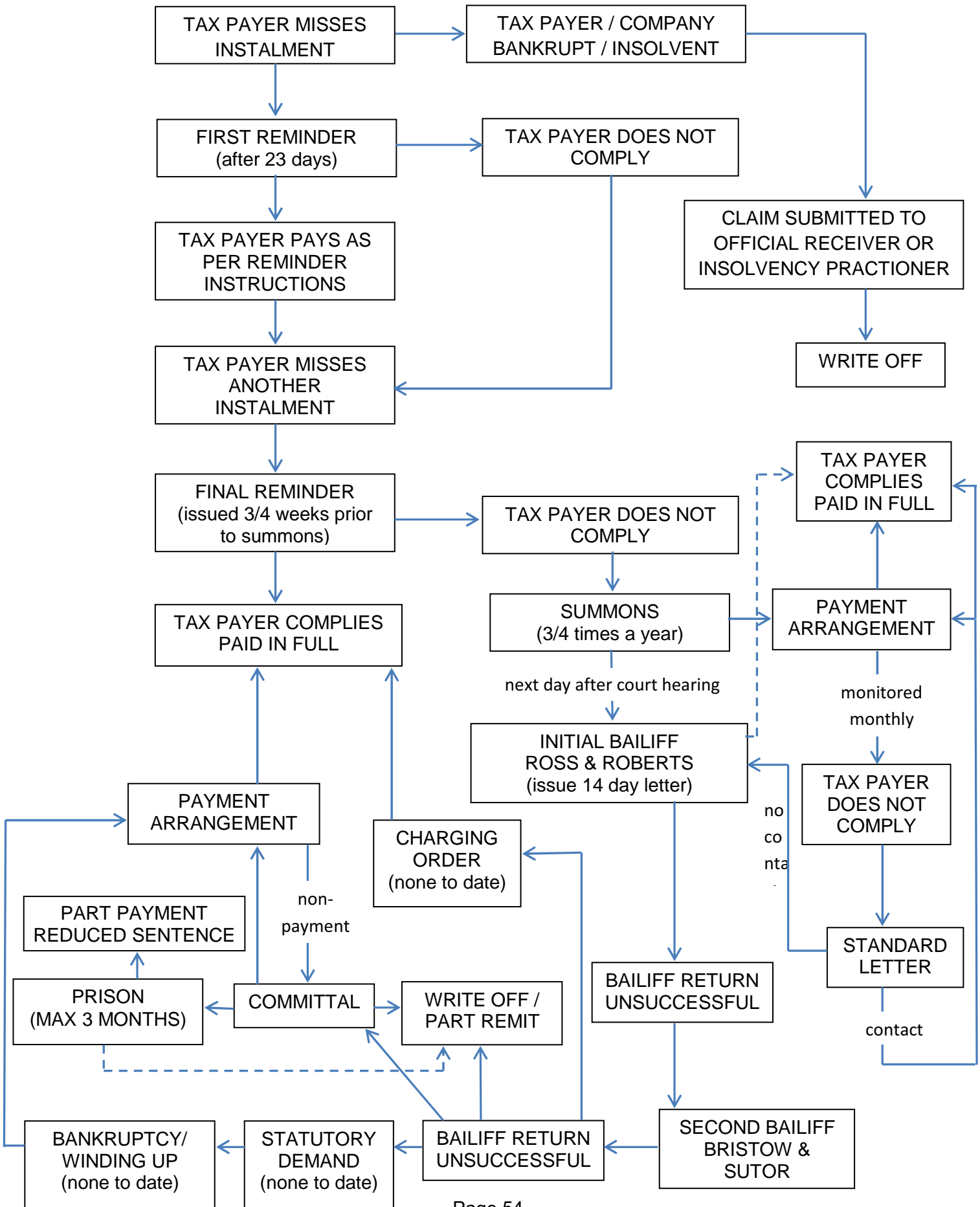
- Incorporate into the quarterly performance report an aging debtor list and the net rate yield figure.
- Investigate best practice of neighbouring authorities (Taunton Deane BC and Sedgemoor DC) with regard to their recovery process and collection rates compared with the number of write-offs.
- Investigate data protection issues in relation to providing a debtor list detailing names/businesses in the public domain.
- Arrange a follow up meeting of the Task and Finish Group and make recommendations to the Scrutiny Committee.

**NDR RECOVERY FLOWCHART**



\* PLEASE NOTE NDR REGULATIONS ALLOW FOR THE ISSUE OF A SINGLE REMINDER PRIOR TO A SUMMONS BEING ISSUED

**NDR RECOVERY FLOWCHART**



*Report Number:* WSC 67/13  
*Presented by:* Councillor R Lillis  
*Author of the Report:* Sam Rawle  
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*Report to a Meeting of:* Cabinet  
*To be Held on:* 5 June 2013  
*Date Entered on Executive Forward Plan  
Or Agreement for Urgency Granted:* 22 May 2013

## **REPORT OF THE SCRUTINY COMMITTEE – PLANNING OBLIGATIONS AND SECTION 106 TASK & FINISH GROUP**

### **1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to ask Cabinet to consider the recommendations made by the Scrutiny Committee's Planning Obligations and Section 106 Task & Finish Group and subsequently endorsed by the Scrutiny Committee, as set out in the appended report.

### **2. CONTRIBUTION TO CORPORATE PRIORITIES**

- 2.1 There is a specific reference to this issue in the current corporate priorities under the New Nuclear Development at Hinkley Point Priority and the proper application of requirements relating to Section 106 payments relates to part of the Council's statutory responsibilities as a local planning authority

### **3. RECOMMENDATIONS**

- 3.1 That Cabinet is requested to consider the following recommendations from the Scrutiny Committee's Planning Obligations and Section 106 Task & Finish Group:
- 3.1.1 That relevant Ward Members and Parish/Town Councils be notified as soon as an application that is likely to require a Section 106 agreement is received to enable a review of priorities to be undertaken to inform negotiations accordingly.
- 3.1.2 That relevant Ward Members and Town/Parish Councils are notified on receipt of Section 106 monies as soon as is reasonably practicable.
- 3.1.3 That officers ensure that the previous recommendations of the Scrutiny Committee relating to Ward Member consultation requiring that Ward Members and Parish/Town Councils, as key consultees, are involved in discussions, as appropriate to establish need prior to negotiations commencing, and be kept informed of progress, are followed.
- 3.1.4 That a community profile be developed to ensure that priorities are justifiable and evidence based, with focus on those areas most likely to be affected by development.

- 3.1.5 That the current application process be amended to the effect that Expression of Interest forms are withdrawn from the Council’s website and provided on demand to ensure applicants are encouraged to discuss proposals with relevant Town and Parish Councils at an early stage.
- 3.1.6 That a robust and closely monitored process to collect Section 106 monies is followed to ensure that any outstanding monies are actively pursued.
- 3.1.7 That consideration be given to including supplementary information relating to Section 106 monies that are included in agreed planning applications before receipt of funds, as part of the regular financial information made available to Members.
- 3.1.8 That consideration is given to undertaking a review of the Supplementary Planning Document as soon as it is practically possible to ensure that it remains up to date and reflects current circumstances.
- 3.1.9 That the current guidance notes relating to Section 106 funding are updated to reflect the changes in procedure following the agreed recommendations of this review.
- 3.1.10 That consideration be given to any observations reported to Scrutiny Committee by members of the Task & Finish Group following their attendance at the June meeting of Planning Obligations Group.
- 3.1.11 That the possibility of parish/town councils using Section 106 monies in neighbouring towns/parishes where its use could provide a benefit to the said parish/town that might not be attained if its use were confined to the said parish/town, be investigated.

**4. RISK ASSESSMENT (IF APPLICABLE)**

**Risk Matrix**

<b>Description</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Overall</b>
That the Council does not effectively manage the Section 106 process and local communities do not receive appropriate benefit	3	4	12
<i>Approved processes in place which are regularly monitored and if necessary reviewed</i>	2	4	8

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before the mitigation measures have been actioned and after they have.

**5. BACKGROUND INFORMATION**

- 5.1 The appended report details the inquiry and findings of the Scrutiny Task & Finish Group review of planning obligations and section 106 agreements. The report and recommendations were agreed by Scrutiny Committee at their meeting of the 22 April, 2013.

**6. FINANCIAL/RESOURCE IMPLICATIONS**

- 6.1 There are no specific implications identified within the recommendations in the report.



**7. SECTION 151 OFFICER COMMENTS**

- 7.1 Robust and transparent governance of the process is essential given the sums of money involved. Recommendation 3.1.6 reiterates the importance of strong monitoring systems and procedures.

**8. EQUALITY & DIVERSITY IMPLICATIONS**

**Members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process.**

The three aims the authority **must** have due regard for:

- Eliminate discrimination, harassment, victimisation
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

- 8.1 Planning Obligations aim to address community need and detailed consideration is needed when delivering schemes. No equality issues were raised during the course of the inquiry and there will not be a negative impact on equality as a result of the recommendations in the report.

**9. CRIME AND DISORDER IMPLICATIONS**

- 9.1 There are no specific implications identified within the recommendations in the report.

**10. CONSULTATION IMPLICATIONS**

- 10.1 The recommendations in this report enhance and encourage greater consultation with the community, parish and town councils and ward members.

**11. ASSET MANAGEMENT IMPLICATIONS**

- 11.1 There are no specific implications identified within the recommendations in the report.

**12. ENVIRONMENTAL IMPACT IMPLICATIONS**

- 12.1 There are no specific implications identified within the recommendations in the report.

**13. LEGAL IMPLICATIONS**

- 13.1 There are no specific implications identified within the recommendations in the report.

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*Report Number:* WSC 56/13  
*Presented by:* The Task & Finish Group  
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*Report to a Meeting of:* Scrutiny  
*To be Held on:* 22 April 2013  
*Date Entered on Executive Forward Plan Or Agreement for Urgency Granted:* Not applicable

## REPORT OF THE PLANNING OBLIGATIONS & SECTION 106 TASK & FINISH REVIEW GROUP

### 1. PURPOSE OF REPORT

- 1.1 To advise members of Scrutiny Committee about the work of the Planning Obligations and Section 106 Task & Finish Group.
- 1.2 To make recommendations with regards to making improvements to the planning obligations process.

### 2. CONTRIBUTION TO CORPORATE PRIORITIES

- 2.1 There is a specific reference to this issue in the current corporate priorities under the New Nuclear Development at Hinkley Point Priority and the proper application of requirements relating to Section 106 payments relates to part of the Council's statutory responsibilities as a local planning authority

### 3. RECOMMENDATIONS

- 3.1 That Scrutiny Committee consider the following:
  - 3.1.1 That relevant Ward Members and Parish/Town Councils be notified as soon as an application that is likely to require a Section 106 agreement is received to enable a review of priorities to be undertaken to inform negotiations accordingly.
  - 3.1.2 That relevant Ward Members and Town/Parish Councils are notified on receipt of Section 106 monies as soon as is reasonably practicable.
  - 3.1.3 That officers ensure that the previous recommendations of the Scrutiny Committee relating to Ward Member consultation requiring that Ward Members and Parish/Town Councils, as key consultees, are involved in discussions, as appropriate to establish need prior to negotiations commencing, and be kept informed of progress, are followed.

- 3.1.4 That a community profile be developed to ensure that priorities are justifiable and evidence based, with focus on those areas most likely to be affected by development.
- 3.1.5 That the current application process be amended to the effect that Expression of Interest forms are withdrawn from the Council's website and provided on demand to ensure applicants are encouraged to discuss proposals with relevant Town and Parish Councils at an early stage.
- 3.1.6 That a robust and closely monitored process to collect Section 106 monies is followed to ensure that any outstanding monies are actively pursued.
- 3.1.7 That consideration be given to including supplementary information relating to Section 106 monies that are included in agreed planning applications before receipt of funds, as part of the regular financial information made available to Members.
- 3.1.8 That consideration is given to undertaking a review of the Supplementary Planning Document as soon as it is practically possible to ensure that it remains up to date and reflects current circumstances.
- 3.1.9 That the current guidance notes relating to Section 106 funding are updated to reflect the changes in procedure following the agreed recommendations of this review.
- 3.1.10 That consideration be given to any observations reported to Scrutiny Committee by members of the Task & Finish Group following their attendance at the June meeting of Planning Obligations Group.

#### 4. **RISK ASSESSMENT (IF APPLICABLE)**

##### **Risk Matrix**

<b>Description</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Overall</b>
That the Council does not effectively manage the Section 106 process and local communities do not receive appropriate benefit	3	4	12
<i>Approved processes in place which are regularly monitored and if necessary reviewed</i>	2	4	8

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before the mitigation measures have been actioned and after they have.

#### 5. **BACKGROUND INFORMATION**

##### 5.1 **Introduction**

- 5.1.1 A number of Ward Members had raised concerns relating to the Planning Obligations and Section 106 process, particularly in relation to member involvement and consultation with town and parish councils.

The Scrutiny Committee decided to set up a Task & Finish Group to review the current procedure and processes.

- 5.1.2 The terms of reference of the review were as follows:

- Review the process and arrangements for the negotiation, governance and delivery of planning obligations

- Review the recommendations previously made by Scrutiny Committee
- Examine the Planning Department's advice and process relating to planning obligations
- Understand the process for consultations with Parish/Town Councils, Community Organisations and Ward Members to establish a 'priority list' of community benefit projects and whether this has been achieved
- Look at how the Council communicates with Members, the public, Town/Parish Councillors about the benefits of planning obligations
- Consider whether, and if so how, Ward Members and Town/Parish Councils shall be consulted on specific applications before recommendations are made to allocate monies
- Form an opinion on whether the Council is meeting the overall policy objectives of Section 106 planning obligations

## 5.2 Outcomes

Understand the process and arrangements and identify areas for improvement and make recommendations

## 5.3 Membership of Task & Finish Group

Councillors Richard Lillis, Doug Ross, Paul Grierson, Peter Murphy

Officer Support: Ian Timms, Corporate Manager, Angela Lamplough, Climate Change & Community Manager, Kenneth Taylor, Deputy Planning Manager, Sam Rawle, Scrutiny & Performance Officer

The review group met on four occasions between October 2012 and April 2013 to consider the planning obligations and section 106 agreement process.

The sections below describe the broad discussions and conclusions that relate to each of the areas set out in the terms of reference.

## 5.4 What are Planning Obligations?

5.4.1 Planning obligations are developer contributions secured through negotiation between the Council and developers as part of the planning application process. They are secured through legal agreements under Section 106 of the Town and Country Planning Act 1990, as amended.

5.4.2 These agreements are generally associated with larger or substantial development that will affect a community. Planning obligations are intended to make acceptable development, which would otherwise be unacceptable in planning terms. Planning obligations should be in line with 5 criteria, as specified in Government guidance:

- a) Necessary to make the proposed development acceptable in planning terms.
- b) Relevant to planning
- c) Directly related to the proposed development
- d) Fair and reasonably related in scale and kind to the proposed development
- e) Reasonable in all other aspects

5.4.4 Section 106 agreements are used to secure:

- Affordable housing, (on or off-site provision or commuted payments).
- Community Infrastructure & Local Natural Environment (community buildings, play space)
- Transport and highway improvements or travel schemes

- Education developments (schools)

5.4.5 The agreements with developers as a general rule are for provision of new facilities but may also include time limited amounts for maintenance of new facilities. Secured obligations can also be used for enhancement of facilities, but cannot be seen as a substitute for local authorities discharging their budgetary responsibilities.

5.4.6 In 2009 the Council produced a Supplementary Planning Document. This document provides developers with clear guidance on the type and level of contributions expected.

## 5.5 The Process

5.5.1 During 2009, the Scrutiny Committee had undertaken a piece of work to review the progress on work being undertaken to develop and improve the securing and use of planning obligations.

5.5.2 At their meeting on 20<sup>th</sup> April 2009, Scrutiny Committee agreed the following resolution:

“RESOLVED (1) that when preparing a report for Council on this matter officers be requested to take into account the following views:

- (1) A request to consider reducing trigger points for developments in larger settlements to reflect economic circumstances
- (2) That monies received are spent on appropriate schemes for the community in a timely manner
- (3) That there should be clarity in negotiation with Members informed of progress
- (4) That ward members and parish and town councils, as key consultees, are involved in discussions as appropriate to establish need prior to negotiations, commencing, and be kept informed of progress
- (5) That consideration should be given as to how wide in terms of geography and content any agreement should apply.
- (6) That parish/town councils be consulted to establish future needs”.

5.5.3 Since the recommendations made by the Scrutiny Committee in 2009, officers have made considerable improvements to the planning obligation process. The Community Liaison Manager has pro-actively worked with Parish and Town Councils across the district to increase their understanding of the planning obligations process and how to access funds and also to establish a list of community priorities.

5.5.4 Development Control Officers undertake the initial discussion with applicants based on the Supplementary Planning Guidance and with reference to the priority list. The Development Control Officer will involve the relevant lead officer (community/affordable housing/economic development) in pre-decision discussions, if the application is likely to lead to planning obligation agreements, affordable housing, commuted sums or open space transfer.

5.5.5 Although liaison with Parish and Town Councils had improved and was working well, there remained issues with the timing and level of engagement with Parish and Town Councils and Ward Members in particular. The review group felt there were missed opportunities as Ward Members could provide valuable insight into the needs of their communities, which would benefit the early stages of negotiation and also to review and inform priorities.

5.5.6 Members requested that in future Ward Members and Parish/Town Councils should be notified as soon as it became apparent that an application was likely to require a Section 106 agreement, and that they are kept fully informed of progress.

## 5.6 Community Priorities

- 5.6.1 The review group heard that work to develop a community priority list with parish and town councils is continuing. The Deputy Development Control Manager was able to inform the group of the importance of evidence based priorities which relate to local need. In order for negotiations with developers to be successful and beneficial a strong evidence base for community priorities was crucial.
- 5.6.2 Officers explained that there was an intention to strengthen the evidence base through the creation of a community strategy. This would help in making mitigation arguments and demonstrating links with other existing strategies. The review group backed this approach and supported the development of a community strategy.
- 5.6.3 The review group also discussed the geographic area to which any agreement should apply and also whether parish/town councils are able to identify priorities outside their community, such as the shared use of a facility with a neighbouring parish.
- 5.6.4 A key requirement of the obligation/agreement is that the facility funded must meet the test criteria of being relevant and related to the development. So for example an obligation secured for community infrastructure in relation to a development in Minehead, could not be used for to fund projects elsewhere in the district. Only developments with wider affects could provide wider obligations.

## 5.7 Monitoring agreements and allocating funds

- 5.7.1 The review group heard that a planning obligations database has been developed in-house which is used to monitor the status of section 106 agreements, including trigger points, amount of spend and monies outstanding. Reports are run on a quarterly basis and are presented to the internal Planning Obligations Group.
- 5.7.2 When Section 106 funds become available, the Community Liaison Manager will notify the relevant Parish and Town Councils and community groups and invite applications. The initial application is submitted by completing an expression of interest form which has been available directly on the Council's website.
- 5.7.3 It was felt that Community Groups needed to be encouraged to work with Parish/Town Councils when identifying projects. Applicants are now required to request an expression of interest form from the Community Liaison Manager, who will signpost applicants to the relevant parish or town council to discuss the proposals. This will ensure that parish and town councils are fully informed of applications from community organisations in their area.
- 5.7.4 The review group also identified an issue involving the immediate notification of when funds become available. This had previously been undertaken quarterly, but now happens immediately on receipt of monies into the Council.
- 5.7.5 The methods of securing Section 106 monies from developers once trigger points were reached were explored in depth. The Council is not always made aware by the developer when a trigger point is reached, so Development Control Officers need to carry out their own investigations to establish the position. The assessment of whether a trigger point had been reached depended on cross referencing information with the Building Control Team and/or Council Tax occupation records or by on site visits. There is a good process in place to recover due monies, but Members wished to reiterate that this needed to be closely monitored and outstanding contributions actively pursued.
- 5.7.6 The planning obligations monitoring report, which is made available to Members, is limited to those developments that are 'active'. Members felt that by also including the 'possible'

developments would be helpful to achieve a better understanding of how much funding was potentially available. It was recognised that there needed to be a caveat with this information as there was no guarantee that these developments would materialise.

## **6. FINANCIAL/RESOURCE IMPLICATIONS**

- 6.1 The authority currently holds £439,749 (at date of report). In 2012/13, the authority received £145,600.

## **7. SECTION 151 OFFICER COMMENTS**

- 7.1 In view of the significant funding involved, robust and transparent governance of this process is essential.

## **8. EQUALITY & DIVERSITY IMPLICATIONS**

**Members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process.**

The three aims the authority **must** have due regard for:

- Eliminate discrimination, harassment, victimisation
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

- 8.1 Planning obligations do aim to address community needs but detailed consideration is needed when delivering schemes. The issues surrounding equalities and diversity are vital considerations and will depend on the individual proposal. The range of schemes also needs to be considered in order to achieve maximum benefit for the community.

## **9. CRIME AND DISORDER IMPLICATIONS**

- 9.1 There are no specific implications identified within the report. However, it should be noted that addressing issues of community safety is one of the areas that can benefit from monies or obligations. This would be dependant on identified need in the area specific to the agreement.[pect of this report.](#)

## **10. CONSULTATION IMPLICATIONS**

- 10.1 The working up of community priorities and use of secured monies will need to involve parish councils, town councils ward members and community organisations to ensure that sums are maximised in each ward/parish. Consultation will be a vital element in use of monies from planning obligations.
- 10.2 The recommendations in this report enhance and encourage greater consultation with the community, parish and town councils and ward members.

## **11. ASSET MANAGEMENT IMPLICATIONS**

- 11.1 In specific cases monies secured can be used for the improvement of assets. As explained in the body of the report, this does not replace general budget responsibilities from the council.



**12. ENVIRONMENTAL IMPACT IMPLICATIONS**

- 12.1 Secured obligations can play an important part in sustainability of communities as they do, by their nature, seek to minimise the development's impact by ensuring that benefits are delivered in the locality.

**13. LEGAL IMPLICATIONS**

- 13.1 The proper application of this process is part of the statutory obligations placed on the Council as a local planning authority in accordance with the provisions of Section 106 of the Town and Country Planning Act 1990 as amended.
- 13.2 The individual agreements will have specific conditions related to the spending of the monies and how specific obligations will be delivered. The sums gained need to be spent in accordance with these agreements and the timescales within them.

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*Report Number:* WSC 64/13

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*Report to a Meeting of:* Cabinet

*To be Held on:* 5<sup>th</sup> June 2013

*Date Entered on Executive Forward Plan Or Agreement for Urgency Granted:* 20<sup>th</sup> May 2013 (Agreement for Urgency)

## **Consultation Responses to the NDA's Strategy Paper on optimising the number and location of interim Intermediate Level Waste Storage facilities in England and Wales and Optimising the number and location of FED Treatment (Dissolution) Facilities in Magnox Limited**

### **1. PURPOSE OF REPORT**

- 1.1. This report sets out the Councils proposed response to the Nuclear Decommissioning Authority's (NDA's) current consultation on Intermediate Level Waste (ILW) storage options for England and Wales which was launched on 10<sup>th</sup> May 2013 and closes on 9<sup>th</sup> June 2013.
- 1.2. It also sets out the Councils proposed response to the NDA's current consultation on optimising the number and location of Fuel Element Debris (FED) Treatment (Dissolution) Facilities in Magnox Limited which was also launched on 10<sup>th</sup> May 2013 and closes on 9<sup>th</sup> June 2013.
- 1.3. In relation to the first consultation the NDA have published a Strategy Paper on optimising the number and location of Interim ILW Storage Facilities on Magnox Limited and existing EDF Energy Sites in England and Wales. It is important that the Council responds to this consultation as it involves plans for waste storage at Hinkley Point A and the possible transfer of material from elsewhere in the country to Hinkley Point A. It should be noted that work is being done to assess whether or not facilities to host waste from older Magnox stations and currently operating EDF Energy stations (such as Hinkley Point B) is taking place but is not factored into this consultation at this time.
- 1.4. The second consultation relates to a project to establish the most appropriate location or locations for treating Fuel Element Debris (FED) currently stored and processed at Hinkley Point A, Oldbury and Sizewell A sites. It is important that the Council responds to this consultation as it could involve Hinkley Point A storing and hosting Dissolution Facilities for waste from Oldbury and/or Sizewell A.

## 2. **CONTRIBUTION TO CORPORATE PRIORITIES**

- 2.1 There are no priorities, objectives and key tasks that directly relate to these issues within the Corporate Plan 2013/16 although there are clearly a range of objectives and key tasks relating to the Corporate Priority regarding Hinkley Point.

## 3. **RECOMMENDATIONS**

- 3.1 That the Council responds to the NDA's consultations expressing the following points:
- (a) That West Somerset Council, in accordance with its planning guidance and given the potential adverse effects on the tourism economy, objects strongly to the principle of ILW and FED from other parts of England and/or Wales being stored and/or treated at Hinkley Point A or B (or C when it becomes operational)
  - (b) That West Somerset Council object to the increased risk to the Public of Individual Dose from the Transport of Radioactive Waste to Hinkley Point A or B (or C when it becomes operational) from elsewhere in England and/or Wales
  - (c) That West Somerset Council requests that it is involved in all discussions and consulted at all stages of the development of the NDA's Strategy for ILW storage options for England and Wales and proposals relating to treating FED at Magnox sites.
  - (d) That West Somerset Council raises considerable concerns with the NDA about the amount of time and limited scope of the consultations currently underway affecting the District of West Somerset.

## 4. **RISK ASSESSMENT (IF APPLICABLE)**

### Risk Matrix

Description	Likelihood	Impact	Overall
That decisions are taken which involve storage and treatment proposals at Hinkley Point which are not influenced by the Council as far as possible	4	3	12
<i>That the Council responds to consultation requests and becomes actively involved in discussions to try and influence the NDA's strategy on ILW storage options moving forward</i>	2	3	6

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before the mitigation measures have been actioned and after they have.

## 5. **BACKGROUND INFORMATION**

- 5.1 The Nuclear Decommissioning Authority (NDA) is a non-departmental public body created through the Energy Act 2004. They are a strategic authority that owns 19 sites and the associated civil nuclear liabilities and assets of the public sector, previously under the control of United Kingdom Atomic Energy Authority (UKAEA) and British Nuclear Fuels plc (BNFL).

- 5.2 They are responsible for

- decommissioning and cleaning up these civil nuclear facilities
- ensuring that all the waste products, both radioactive and non-radioactive, are safely managed
- implementing Government policy on the long-term management of nuclear waste
- developing UK-wide nuclear Low Level Waste (LLW) strategy and plans

- scrutinising decommissioning plans of the eight existing nuclear power stations of EDF Energy Nuclear Generation Group Limited
- advising Department of Energy and Climate Change (DECC) on the quality of operator's decommissioning plans and associated cost estimates for new nuclear power stations under HMG's Funded Decommissioning Programme arrangements

5.3 The NDA's purpose is to deliver the decommissioning and clean-up of the UK's civil nuclear legacy in a safe and cost-effective manner, and where possible to accelerate programmes of work that reduce hazard. The NDA aim to do this by introducing innovation and contractor expertise through a series of competitions. The NDA report to the Department for Energy and Climate Change (DECC).

5.4. ILW is radioactive waste with radioactivity levels exceeding the upper boundaries for Low Level Waste (LLW):

- Alpha emitters greater than 4 GBq/tonne.
- Beta/gamma emitters greater than 12 GBq/tonne.
- Waste that does not need radiological self-heating to be taken into account in the design of storage or disposal facilities.

The major components of ILW include metals and Magnox sludges, organic materials, cement and graphite. The chemical and physical forms of ILW vary from large solid waste items that are relatively chemically inert to wet sludges which could be chemically reactive and heavily contaminated.

ILW arises from:

- Reactor operation
- Decommissioning
- Spent fuel reprocessing
- Research facilities
- Historic ILW in legacy storage

5.5. Fuel Element Debris (FED) consists of the splitters or lugs (fins that optimise in-reactor fuel element cooling during generation) removed from Magnox fuel elements before the spent fuel is sent to Sellafield for reprocessing. The fuel casing, including the splitters / lugs, used in Magnox reactors is a magnesium alloy. Although the specific alloy used is non-oxidising (from which the Magnox reactors derive their name), magnesium is inherently a reactive metal. At present the plan is for each of the sites to treat their FED using dissolution (treatment with acid) which is then managed along with other ILW wastes at the site. The dissolution process reduces the volume of solid waste which in turn reduces the size of store required for interim ILW although it does lead to some discharges of radioactive and non-radioactive by-products into the environment. All such discharges have to be both minimised and authorised under the environmental permitting regulations.

5.6. The current consultation relating to ILW outlines that the Nuclear Decommissioning Authority (NDA) has made a commitment to consider the possibilities to reduce the overall costs, environmental impacts, and timescales of decommissioning by consolidating Intermediate Level Waste (ILW) management at fewer locations. The consolidation of interim storage of packaged ILW prior to disposal offers a significant opportunity of this nature. Interim storage would take place prior to "the transfer of the packages to a licensed Geological Disposal Facility (GDF) when it becomes available". Members will be aware of the lack of progress in locating a site for the GDF and that it is unlikely to become operational until at least 2040.

- 5.7. The current consultations are both described as Stage A “Define Credible Options” and are essentially a list of approaches that can “credibly deliver the objective” having been distilled from a list of initial options by applying screening criteria. Therefore the current consultations are **more than simply a list of ideas**, the lists of credible options has been subject to analysis. Further work will follow this consultation to identify the preferred option(s) known as Stage B. A final stage to test the ability to implement the preferred option(s) will be known as Stage C.
- 5.8. It should be noted that only Magnox and EDF Energy sites have been included in the study. The list of sites includes (Magnox unless otherwise stated):
- Hinkley Point A
  - Hinkley Point B (EDF Energy)
  - Oldbury
  - Berkeley
  - Dungeness A
  - Dungeness B (EDF Energy)
  - Bradwell
  - Sizewell A
  - Sizewell B (EDF Energy)
  - Trawsfynydd
  - Wylfa
- 5.9. In relation to FED the study considers the most appropriate location to treat FED by dissolution from Hinkley Point A, Oldbury and Sizewell A. It should be noted that Hinkley Point A already stores nearly twice as much FED than Oldbury or Sizewell A (261 tonnes, 144 tonnes and 134 tonnes respectively).
- 5.10. The ILW study the subject of the consultation highlights that for Magnox sites, it is assumed that Berkeley, Bradwell and Trawsfynydd will have interim ILW stores that will be used to store their own wastes (Bradwell and Trawsfynydd stores have already been constructed, and Berkeley’s store is currently under construction). It is assumed for this study that these stores may be available to store wastes from other sites also (provided that there is spare capacity). All other Magnox sites are potential donor sites and most are potential host sites, i.e. all other sites may transfer packaged waste for storage at another location, or may have a store for its own and potentially other sites’ wastes.
- 5.11. It is important to note that there are some site specific differences regarding the packaging of waste material and that these differences affect ILW store designs, how the packages are handled, transported and ultimately influence the credible interim storage options that are available. In some cases ‘A’ and ‘B’ sites have different waste packaging strategies and co-location of waste in the same storage building may not be practical. This issue is the subject of further work between the NDA, Magnox and EDF Energy.
- 5.12. The consultation highlights that, in the view of the NDA, the consolidation of operational ILW interim storage across Magnox and EDF Energy estates offers a significant opportunity to improve value for money, reduce the environmental impact of new store build and impact on decommissioning timescales and to take a multi-site and UK-wide view of storage.
- 5.13. The ILW consultation highlights various opportunities including:

#### **Potential Safety and Environmental Benefits**

The implementation of a shared interim storage approach has the potential to offer significant benefits in terms of both safety and the environment. The following provides a short summary of these potential benefits. This list is not intended to be exhaustive and it is

possible that additional benefits will be identified by the project as the options become further developed:

- Consolidation of waste storage would negate the need to build some of the planned new interim storage facilities. Reduced store construction could avoid use of a significant amount of materials (concrete, steel, metal cladding), and a reduced requirement for plant items such as craneage, ventilation systems and package maintenance and inspection facilities. This in turn would reduce transport disturbance and worker risk associated with construction.
- With fewer interim storage facilities being built, then during the operational phase there would be fewer facilities to maintain, reducing for example, the amount of cladding potentially requiring replacement, and reducing the monitoring requirements of the store. During the store decommissioning phase, there would be a reduction in the amount of material requiring waste management and fewer sites being disturbed.

A number of potential environmental detriments are also able to be identified when comparing the approach of shared interim storage to the current baseline strategies of interim storage at all of the sites in scope. Examples include the need to transport waste packages between sites and also the potential requirement to create greater buffer storage capacity than planned for within the baseline. These potential detriments will be investigated by the project to determine whether, on balance, consolidation of interim ILW storage offers overall benefit.

### **Economic Benefits**

The implementation of a shared interim storage approach could offer significant economic benefits in terms of overall programme cost savings. Any saving is likely to be achieved principally through a reduction in design, construction, commissioning and decommissioning costs. The potential to optimise consumable and energy usage during operations may also lead to a cost saving.

Considering Magnox sites only (and excluding costs associated with Berkeley, Bradwell and Trawsfynydd that are common to all options), the range of lifecycle costs across the long-list of options have been estimated to be between approximately £40M (three stores only) to £78M (baseline of eight stores). In this estimation sums have been included for transport costs and any store modifications required.

### **Strategic Benefits**

Strategic benefit may be realised through adoption of a shared ILW storage approach both in the near and longer-term. In the near-term, benefit would be realised through an increase in operational flexibility across the sites involved. For example early availability of storage space for some sites may enable earlier waste retrieval and packaging than currently planned.

In the longer-term strategic benefit would be achieved through the reduction in the number of sites needing to export packages to the GDF. This would be likely to result in direct cost savings and also have the potential to benefit the Radioactive Waste Management Directorate of the NDA (RWMD) by reducing the complexity of the GDF emplacement schedule.

In Stage B of this project a more detailed investigation of the strategic benefits which could result from a shared interim storage approach will be undertaken.

- 5.14. The consultation document also highlights a number of Assumptions, Constraints and Risks.

### **Assumptions**

There are a number of assumptions which have been identified at this stage of the project:

- It is assumed that the UK Radioactive Waste Inventory (2010) and Magnox ILW Programme inventory information is valid. Therefore it is assumed that current estimates of package numbers do not change significantly in the future.
- All waste currently in scope will be placed into DCICs.
- In the case of use of DCICs, wastes are packaged such that the resulting packages are transportable on the day that the package is created. Also it is assumed that the transport of ILW packages in compliance with transport regulations is feasible.
- It is assumed that the necessary authorisations to permit waste packages to be imported to a site can be obtained.

### **Constraints**

A constraint identified at this stage of the project is that there is a limited 'window of opportunity' which exists within the current ILW storage programme within Magnox, to allow for the investigation of this opportunity before significant funds are spent on implementation of the site-centric baseline.

No site constraints have been identified at this stage of the assessment that would affect the outcome (e.g. the lack of available space for the stores). This will be considered further during Stage B of this options assessment process.

### **Risks**

The primary risks to the successful delivery of any proposal other than the baseline for shared ILW interim storage that have been identified at this stage include the following:

- Acceptance of the justification supporting implementation of the preferred option by local authorities, the EA, and Office for Nuclear Regulation (and the Radioactive Materials Transport Team (RMTT)).
- The assumptions and data used in the options assessment are found to be invalid at a later stage. An example of this category of risk is that there is a significant change in package numbers, or that the packaging strategy is changed such that stores constructed earlier can no longer be utilised as planned.
- Future changes in regulatory standards and requirements at the time of implementation of any identified plan differing significantly from the standards and requirements that exist now. An example of such a risk would be a change in the standards required with respect to ILW interim storage. This might mean that waste arising many years after the assigned store had been constructed (for example EDF Energy waste packages) could not be stored in the assigned store and meet the standards applicable at the time.
- That options otherwise preferred may involve significant scheduling conflicts with other waste management or decommissioning projects, such as other ILW processing operations. This will be considered further during Stage B of this options assessment process.

- 5.15. Similarly the FED consultation highlights various opportunities including:

### **Potential Safety and Environmental Benefits**



The implementation of a shared approach to FED treatment has the potential to offer benefits in safety and environmental terms. The following provides a short summary of these. This list is not intended to be exhaustive and it is possible that additional benefits will be identified by the project as the options become further developed and explored:

- Consolidation of facilities would result in reduced facility construction which could avoid the use of a large amount of materials primarily concrete and steel and associated energy; in turn this would reduce the volume of waste generated from decommissioning and plant demolition.
- With fewer plants being built the risks associated with construction and demolition to both people and the environment are reduced.
- Whilst it is considered that the discharge environments at the sites considered are all suitable for the receipt of the aqueous discharges associated with dissolution, some environments may be considered better suited than others.

Implementation of a shared facility approach would have an impact upon both nonradioactive and radioactive discharges. Whilst the total volume and amount of activity which would be discharged across the company would not increase, it is recognised that the distribution of these discharges across the affected sites would change. As noted, this change could represent an overall environmental benefit, particularly with respect to aqueous discharges. However such a change in discharge distribution could result in a longer period of discharge at the recipient site(s).

In achieving the safety and environmental benefits described above, there would be the need to transport the FED material between sites, and also the potential requirement for greater buffer storage capacity. These potential detriments and any others identified are being investigated to determine whether, on balance, consolidation of FED treatment by dissolution offers an overall benefit.

### **Economic Benefits**

The implementation of a shared facility approach could offer significant economic benefits in terms of overall programme cost savings. Any saving is likely to be achieved principally through a reduction in design, construction, commissioning and decommissioning costs. The potential to optimise consumable and energy usage during operations may also lead to a cost saving.

An estimation of the cost of implementation of the options has been made. The costs of implementation of the options range from an estimated £85M (for the least expensive option) to £150M (for the most expensive option). It should be noted that waste retrieval and dissolution facility operations costs remain the same regardless of which option is implemented as these costs are directly proportional to the amount of FED waste and not the location at which it is treated. It is recognised that options which involve inter-site transfers will incur some additional costs associated with transport.

### **Strategic Benefits**

Strategic benefit may be realised from the ability to manage the FED treatment programme in a coordinated manner to optimise the throughput, thus increasing the operational flexibility across all the sites involved. For example, this would allow for outages / maintenance of sites' retrieval plants to be planned and therefore not affect the shared facility operations i.e. due to up-take of spare capacity from another donor site.

Stage B of this project will investigate these and other strategic benefits that could result from a shared facility approach; for example, whether it would provide the opportunity to bring forward waste retrievals and therefore hazard reduction (this in turn may lead to the

ability to accelerate other interdependent projects, such as FED vault or active effluent management plant decontamination and demolition).

- 5.16. Again, in relation to FED the consultation document also highlights a number of Assumptions, Constraints and Risks.

### **Assumptions**

There are a number of assumptions which have been identified at this stage of the project:

- It is assumed that all new FED treatment plants will be as the Bradwell design.
- It is assumed that the 2010 UK Radioactive Waste Inventory provides a reasonable estimate of the volume and radioactive content of the FED waste considered in this study.
- It is assumed that the transport of ILW FED in compliance with transport regulations is feasible.
- It is assumed that necessary discharge authorisations can be obtained.

### **Constraints**

There are a number of constraints which have been identified at this stage of the project.

The most significant of these relates to the fact that there is a limited 'window of opportunity' which exists within the current programme to allow for the investigation of this opportunity before significant funds are spent on implementation of the site-centric baseline.

No site constraints have been identified at this stage of the assessment that would affect the outcome (e.g. the lack of available space for the facilities). This will be considered further during Stage B of this options assessment process.

### **Risks**

Dissolution itself carries some risk in terms of the ability of the process to deliver the required throughput. However, this risk will diminish as more experience of the dissolution process is obtained at Bradwell.

The primary risks to the successful delivery of any proposal other than the baseline that have been identified at this stage are the following:

- Acceptance of the justification supporting implementation of the preferred option by local authorities, the EA, and Office for Nuclear Regulation (and the Radioactive Materials Transport Team (RMTT)).
- Potential for increased consequences of plant breakdown.
- Key assumptions and data used in the options assessments are found to be invalid at a later stage. For example if there is a significant change in the known volume or radioactive content of the FED waste.
- That options otherwise preferred may involve significant scheduling conflicts with other waste management or decommissioning projects, such as other ILW processing operations or vault post-operational clean-out (POCO). This will be considered further during Stage B of this options assessment process.

- 5.17. The consultations both highlight that to date there have been a number of stakeholder engagement activities. These have included letters, attendance of project team members at some SSG meetings / subgroup meetings, regulator meetings and a workshop held in London on 12<sup>th</sup> – 13<sup>th</sup> February 2013. These have provided an opportunity for Magnox to take into account the views of stakeholders on a number of safety and environmental

issues as an input into the option screening process that is presented within the consultation. One outcome from the workshop in February was a preference for Magnox and EDF Energy to work together on interim ILW storage. It should be noted that West Somerset Council was not invited to the workshop and has provided no input to date into either process.

- 5.18. The following table highlights the issues which have been factored into considerations in this Stage A work for the ILW project, and which additional issues will be assessed during stage B (preferred option(s)).

Attribute	Used in Stage A?	To be used in Stage B?	Stage A Specific Attributes
Safety	Yes	Yes	Public dose Worker dose Public conventional safety Worker conventional safety
Environment	Yes	Yes	Public dose Worker dose Public conventional safety Worker conventional safety
Hazard Reduction	No	Yes	
Security	No	Yes	
Socio-Economic	No	Yes	
Cost	No	Yes	

- 5.19. The table below highlights the issues factored into Stage A of the FED project:

Attribute	Used in Stage A?	To be used in Stage B?	Stage A Specific Attributes
Safety	Yes	Yes	Public dose Worker dose Public conventional safety Worker conventional safety
Environment	Yes	Yes	Material use Waste arisings Carbon dioxide emissions Disturbance Aqueous discharges Aerial discharges
Hazard Reduction	No	Yes	
Security	No	Yes	
Socio-Economic	No	Yes	
Cost	No	Yes	

- 5.20. For both consultations ILW and FED, consolidation versus each site dealing with its own issues raises a number of issues.

The options that involve more storage locations in general involve a larger amount of construction. This in turn leads to increased:

- Conventional risks to workers.
- Materials use.
- Demolition arisings.
- Transport of construction and waste materials (leading to increased risk of accidents; carbon dioxide emissions).

However, options which involve fewer storage locations require more transport of radioactive wastes, leading to increased:

- Public and worker radiation exposure (note that implementation of any of the options would not give rise to doses which would challenge relevant legal limits).
- Risk of accidents (from transport).
- Carbon dioxide emissions.

5.21. For the ILW project the specific issues considered most important by stakeholders in the February 2013 workshop were:

- Public individual dose from the transport of ILW packages.
- Public collective dose from the transport of ILW packages.
- Worker collective dose from transport of ILW packages (for use in screening as a surrogate for industrial safety during loading and unloading operations).
- Public conventional safety from transport of ILW packages and construction and demolition materials.
- Worker conventional safety from construction and demolition.
- Disturbance caused directly by construction and demolition.
- Disturbance from HGV movements.

5.22. For the FED project the specific issues considered most important by stakeholders in the February 2013 workshop were:

- Public individual and collective dose from the transport of radioactive waste.
- Public individual and collective dose from radioactive discharges.
- Worker collective dose.
- Public conventional safety from transport of radioactive waste, and construction and demolition materials.
- Worker conventional safety – construction and demolition.
- Disturbance caused directly by on-site construction and demolition activities.
- Disturbance by HGVs.
- Nitrates discharges to the marine environment.
- Sensitivity of the locality to emissions.

5.23. Originally for the ILW project, 22 options were identified prior to the workshop in February 2013 and the subsequent screening exercise which considered the overall performance of all the issues listed above in order to remove sub-optimal options, leaves a list of Credible Options to be take forward for more detailed assessment during Stage B (preferred option(s)).

5.24. The 8 Credible Options for ILW optimisation are set out in the following table:

Options	Number of Storage Sites	Description including sites hosting waste from elsewhere
7a	7	Berkeley, Hinkley Point A, Oldbury, Bradwell, Dungeness A, Sizewell A, Trawsfynydd would all host their own waste
6c	6	<ul style="list-style-type: none"> <li>• Bradwell would host Dungeness A's waste</li> </ul> <i>(Hinkley Point A would host just its own waste)</i>
6b	6	<ul style="list-style-type: none"> <li>• Bradwell would host Sizewell A's waste</li> </ul> <i>(Hinkley Point A would host just its own waste)</i>
6a	6	<ul style="list-style-type: none"> <li>• Berkeley would host Oldbury's waste</li> </ul>

		<i>(Hinkley Point A would host just its own waste)</i>
5f	5	<ul style="list-style-type: none"> <li>• Berkeley would host Dungeness A's waste</li> <li>• Bradwell would host Sizewell A and Dungeness A's waste</li> </ul> <p>(it is unclear how much of Dungeness A's waste would be split between the other sites)</p> <p><i>(Hinkley Point A would host just its own waste)</i></p>
5b	5	<ul style="list-style-type: none"> <li>• Berkeley would host Oldbury's waste</li> <li>• Bradwell would host Dungeness A's waste</li> <li>• Sizewell A would host Dungeness A's waste</li> </ul> <p>(it is unclear how much of Dungeness A's waste would be split between the other sites)</p> <p><i>(Hinkley Point A would host just its own waste)</i></p>
5a	5	<ul style="list-style-type: none"> <li>• Berkeley would host Oldbury's waste</li> <li>• Bradwell would host Sizewell A's waste</li> </ul> <p><i>(Hinkley Point A would host just its own waste)</i></p>
4c	4	<ul style="list-style-type: none"> <li>• Berkeley would host Oldbury's waste</li> <li>• Bradwell would host Sizewell A's waste and Dungeness A's waste</li> <li>• <b>Hinkley Point A would host Dungeness A's waste</b></li> </ul> <p>(it is unclear how much of Dungeness A's waste would be split between the other sites)</p>

- 5.25. A summary of the screening assessment to reduce the long list of 22 options down to a short list of 8 credible options is set out in Appendix B of the consultation and scores the various options Red, Amber or Green on a range of common factors. It is noted that of all the options, option 4c involving transfer of ILW waste from Dungeness A to Hinkley Point A scores red once, amber twice and green five times – importantly this is the most green scores of any of the options assessed (green meaning that this was the best performing option (or performed similarly to the best) on that particular factor)).
- 5.26. The red score for the option involving transportation from Dungeness A to Hinkley Point A was on the factor assessing Public Individual Dose from the Transport of Radioactive Waste.
- 5.27. For FED the long list of options contained 14 options and 9 Credible Options remain. It should be noted that the 5 options discounted following screening were the options which considered moving FED from Hinkley to other sites. The reasons set out in the consultation as to why this option has been ruled out are set out below:
- Movement from Hinkley Point A to Oldbury would involve the transfer of FED from Hinkley Point A, which of the three donor sites has the largest volume of FED material and the highest levels of radioactivity, to a new plant at Oldbury, which has the least favourable aquatic dispersion characteristics of the sites considered.
  - Movement from Hinkley Point A to Sizewell A involves the transfer of the largest volume of FED material with the highest levels of radioactivity over the greatest distance of all the options considered. The location at Sizewell A also has poorer dispersion characteristics than the location at Hinkley Point A, a lower (i.e. more challenging) Environmental Quality Standard for nitrates, and a higher collective dose per unit of radioactivity released.

5.28. The 9 Credible Options for FED are set out in the following table:

Option	Type	Number of locations	Number of new plants	Dissolution Facility Host Sites			
				Hinkley Point A	Oldbury	Sizewell A	Dungeness A
A	Baseline	Three	Three	HPA	Oldbury	Sizewell A	N/A
B	Regional	Three	Two	HPA	Oldbury		Sizewell A (using existing plant)
C	Regional	Two	Two	HPA and Oldbury		Sizewell A	
D	Cross-Regional	Two	Two	HPA and Sizewell A	Oldbury		
E	Cross-Regional	Two	Two	HPA			Sizewell A and Oldbury (using existing plant)
F	Cross-Regional	Two	Two	HPA	Oldbury and Sizewell A		
G	Cross-Regional	Two	Two	HPA		Sizewell A and Oldbury	
H	Regional	Two	One	HPA and Oldbury			Sizewell A (using existing plant)
I	Cross-Regional	One	One	HPA, Sizewell A and Oldbury			

5.29. As can be seen options C, D, H and I all involve additional material from elsewhere in the country being stored and treated at Hinkley Point A.

5.30. Of the 4 options involving additional material from elsewhere being treated at Hinkley Point A the screening assessment scoring within the consultation shows the following:

Option		Red	Amber	Green
C	Hinkley Point A and Oldbury		4	7
D	Hinkley Point A and Sizewell A	1	3	7
H	Hinkley Point A and Oldbury	2	1	8
I	Hinkley Point A, Oldbury and Sizewell A	1	2	7

5.31. Each of the red (worst performing options) includes Public Individual Dose from the Transport of Radioactive Waste. Option H also highlights the Total Public Collective Dose from Radioactive Discharges as a red (worst performing options).

### Next Steps

5.32. Following stakeholder review this Stage A papers will be revised as appropriate. The revised papers will include a finalised credible options list for each project. Following completion of Stage A, work will commence on the identification of a preferred option(s). As in Stage A, stakeholders will have an opportunity to provide input into the assessment in a workshop. These are currently planned for July 2013. A paper for both projects outlining the preferred option in Stage B is aimed to be published for stakeholder review during November 2013.

- 5.33. Following completion of Stage B, the ability to implement the preferred option(s) will be tested. It is aimed to complete this phase of the project (Stage C) by the end of March 2014. The consultation notes that any implementation phase would require further specific stakeholder engagement such as in relation to planning permissions and regulatory applications.

### **The Councils Position**

- 5.34. The Council does not have a Council-wide policy on the storage of ILW waste at Hinkley Point A or the treatment of waste at Hinkley Point A and has not needed to form a view on the prospect of waste from elsewhere in the Country being stored or treated at Hinkley Point before now. However, as part of the Councils work on the Hinkley Point C project the Council adopted a Supplementary Planning Document for Hinkley Point C in October 2011 and this SPD set out the Councils approach to Nuclear Waste Storage for Hinkley Point C. This approach is set out in full below:

### **Approach to Nuclear Waste Storage**

The HPC project promoter should consider and evaluate all potential effects of the radioactive waste aspects of the HPC project and review the mitigation proposals and compensation that would be necessary to mitigate impacts on local communities. The HPC project promoter should seek to align strategies for the management of radioactive waste with any local guidance set out in the forthcoming Somerset Waste Core Strategy and ensure that:

- All practical measures are taken to minimise any adverse effects of the interim nuclear waste proposals in line with and appropriate mitigation measures are identified.
- That mitigation and compensation are agreed with the authorities that will address and mitigate against any perceived and actual detrimental effects of radioactive waste storage proposals.
- Appropriate measures are set out for the long term decommissioning and site restoration proposals for any interim waste storage facility and these are set out clearly in a DCO application.
- That all necessary steps are taken to ensure that absolutely no waste from other nuclear establishments is stored on site at Hinkley Point C.

- 5.35. The last bullet point set out in the approach to the storage of nuclear waste, which was added in specifically by Members of West Somerset Council before the SPD was adopted, is very clear on waste to be stored as a result of Hinkley Point C and provides a good indication of the approach to the Councils approach to waste stored and or treated at Hinkley Point A or B from elsewhere in the Country.
- 5.36. Clearly the concept of additional risk to residents, however, small from waste being transported into the District and treated at Hinkley Point is not to be underestimated and, at this stage it is very unclear what local benefits, if any, would arise from storing or treatment waste from elsewhere within the Country at Hinkley Point.
- 5.37. The area surrounding Hinkley Point will undoubtedly suffer considerable change during the construction of Hinkley Point C over the next 10-15 years (assuming that the project goes ahead) and it is considered that any additional reputational harm and actual risk (however small) would not be acceptable in this sensitive environment. The Panel of Examining Inspectors recently concluded that, in their minds, Stogursey “would be adversely affected and would face a much more rapid change than would be typical for a rural community of this nature”. They conclude, in terms of the overall effect on the host Parish for Hinkley

Point C that “for some, we recognise that no compensation for the losses they would suffer could ever be sufficient”.

- 5.38. From a wider perspective, the value of the tourism industry to the economy of West Somerset is, as Members will be acutely aware, enormous. Any reputational damage adversely affecting the attractiveness of West Somerset as a tourist destination would be very significant and wide reaching. Given the additional delays on local roads as a result of Hinkley Point C, any additional adverse effects on the tourist industry in the District cannot be tolerated and should be resisted.
- 5.39. Overall, at this stage and with the limited information available at this time, it is considered important for the Council to outline its ‘in principle’ approach to the storage solutions and treatment proposals set out within the current consultations so that the NDA can factor that in when considering its revision to the Stage A papers (as outlined at 5.32).
- 5.40. Following discussion with the Councils representatives on the Hinkley Point Site Stakeholder Group, the Leader and the Lead Members for Environment (Hinkley and General) and discussion at the Councils Corporate PAG, it is recommended that the Council raise an in principle objection to the storage and treatment of waste from elsewhere in the Country being stored at Hinkley Point A. In addition, that the Council highlight is very real concern about the increased risk to residents from the transport of radioactive material into the District and that the Council registers its desire to be involved in all discussions and consulted at all stages of the development of the NDA’s Strategy for ILW storage options for England and Wales. Finally it is important that the Council raises significant concern about the lack of consultation with the communities affected by the proposals.

## **6. FINANCIAL/RESOURCE IMPLICATIONS**

- 6.1 There are no direct financial or resource implications from the report above, other than for additional officer time spent monitoring progress of the NDA’s work on this issue and the potential need for further Member consideration and involvement later in the process. The Councils Chief Executive (as the Councils representative on NuLeaf) and the Planning Manager will lead on this work.

## **7. SECTION 151 OFFICER COMMENTS**

- 7.1 Any comments to be reported verbally.

## **8. EQUALITY & DIVERSITY IMPLICATIONS**

**Members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process.**

The three aims the authority **must** have due regard for:

- Eliminate discrimination, harassment, victimisation
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

- 8.1 There are no direct equality and diversity implications from this report however, the fact that the consultation material is only available via the NDA’s website and does not appear to be available in any other format is of concern.

## **9. CRIME AND DISORDER IMPLICATIONS**

- 9.1 There are no direct crime and disorder implications from this report.



**10. CONSULTATION IMPLICATIONS**

- 10.1 The extremely limited consultation period offered by the NDA (1 month) to respond to this consultation has prevented any form of engagement with the wider communities of West Somerset. As part of its engagement with the process, the Council will push for a wider consultation exercise involving local communities at future stages of the NDA's proposals on this key subject.

**11. ASSET MANAGEMENT IMPLICATIONS**

- 11.1 There are no direct asset management implications from this report.

**12. ENVIRONMENTAL IMPACT IMPLICATIONS**

- 12.1 The NDA screening process included some high level environmental factors however, no environmental impact assessment has been undertaken. The Council will push for further environmental impact work to be undertaken at future stages of the NDA's proposals on this key subject.

**13. LEGAL IMPLICATIONS**

- 13.1 There are no direct legal implications from this report.

