

The Council's Vision:

To enable people to live, work and prosper in West Somerset

SCRUTINY COMMITTEE

Meeting to be held on Monday 22 April 2013 at 3.30 pm

Council Chamber, Williton

AGENDA

1. Apologies for Absence

2. Minutes

Minutes of the Scrutiny Committee held on 18 March 2012, to be approved and signed as a correct record – **SEE ATTACHED.**

3. Declarations of Interest

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

4. Public Participation

The Chairman to advise the Committee 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. Notes of Key Cabinet Decisions/Action Points

To review the Key Cabinet Decisions/Action Points from the Cabinet Meeting held on 3 April 2013 – **SEE ATTACHED.**

6. Cabinet Forward Plan

To review the latest Cabinet Forward Plan published 3 April 2013 – **SEE ATTACHED.**

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7. Magna Half Yearly Update Report

To receive an update from Tony Murray, Magna West Somerset Director, on performance for the past year and plans for the year ahead – **TO FOLLOW.**

8. Report of the Planning Obligations & Section 106 Task & Finish Review Group

To consider Report No. WSC 56/13, to be presented by The Task and Finish Group – **SEE ATTACHED.**

The purpose of the report is to advise members of Scrutiny Committee about the work of the Planning Obligations and Section 106 Task & Finish Group and to make recommendations with regards to making improvements to the planning obligations process.

9. Scrutiny Committee Workplan Review

To review and scope items for the Scrutiny Committee Workplan for 2012/2013 – **SEE ATTACHED.**

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

Likelihood	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
Impact							

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
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.

SCRUTINY COMMITTEE**Minutes of the Meeting held on 18 March 2013 at 3.30 pm****Present:**

Councillor K J RossChairman
Councillor G S Dowding..... Vice-Chairman

Councillor M J Chilcott
Councillor J Freeman
Councillor R P Lillis

Councillor M O A Dewdney
Councillor B Heywood
Councillor D D Ross

Members in Attendance:

Councillor E May
Councillor M A Smith
Councillor K H Turner

Councillor D J Sanders
Councillor T Taylor
Councillor D J Westcott

Officers in Attendance:

Corporate Director (B Lang)
Scrutiny and Performance Officer (S Rawle)
Corporate Manager - Housing, Welfare & Economy (I Timms)
Efficiencies and Performance Manager (K Batchelor)
Administrative Support (H Dobson)

SC81 Apologies for Absence

An apology for absence was received from Councillor P N Grierson.

SC82 Minutes

(Minutes of the Meeting of the Scrutiny Committee held on 18 February 2013 – circulated with the Agenda).

RESOLVED that the Minutes of the Scrutiny Committee held on 18 February 2013, be confirmed as a correct record.

SC83 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:

Name	Minute No.	Description of Interest	Personal or Prejudicial or Disclosable Pecuniary	Action Taken
Cllr K J Ross	All Items	Dulverton	Personal	Spoke and voted
Cllr K H Turner	All Items	Brompton Ralph	Personal	Spoke
Cllr D J Westcott	All Items	Watchet	Personal	Spoke

SC84 Public Participation

No members of the public had requested to speak on any item on the agenda.

SC85 Notes of Key Cabinet Decisions/Action Points

(Copy of Notes of Cabinet Decisions/Action Points, circulated with the agenda).

In response to a question regarding the production of a business case setting out potential joint working with Taunton Deane Borough Council, the Leader confirmed that he would provide verbal updates on the progress being made at full Council meetings.

The Corporate Director advised of a Joint Members Advisory Panel that would meet on a monthly basis and from which could emerge broader member involvement.

RESOLVED that the Key Cabinet Decisions/Action Points for 6 March 2013, be noted.

SC86 Cabinet Forward Plan

(Copy of the Cabinet Forward published 8 March 2013, circulated with the agenda).

RESOLVED that the Cabinet Forward published 8 March 2013, be noted.

SC87 Assets of Community Value – Review Panel

(Report No. WSC 37/13, circulated with the Agenda).

The purpose of the report was to notify Scrutiny Committee of the change to the Assets of Community Value review process and to appoint a panel of three members to hear the review of the decision to list Minehead Old Hospital as an Asset of Community Value.

The Corporate Director outlined the details in the report and advised that since the distribution of the report a request to review the decision to list Silk Mills, Holford as an Asset of Community Value had also been received. Therefore he requested that the Scrutiny Committee consider nominating three members of the Committee to form a panel/s for the Minehead Old Hospital and Silk Mills, Holford. He confirmed that a legal advisor would be available during the course of the review. The review would not be a public meeting and would enable questions and answers to be provided in an easy manner.

In response to a question the Efficiencies and Performance Manager advised that community groups who had successfully included land/properties on the list of Assets of Community Value had six months in which to make a bid. If the bid was not accepted by the owner, the owner would have 12 months to put the land/property on the market. If the land/property was not sold after that time the process could potentially start again. The land/property would remain on the Asset of Community Value list for five years.

Members discussed concerns as to whether panel members should or should not include local ward members and the importance of having local knowledge relating to the asset of community value available to the panel. The Corporate Director reminded the Committee of the importance that all members of the panel be impartial.

Members concluded that panel meetings held to review Assets of Community Value would:

1. be held on an ad hoc basis;
2. comprise of three members of the Scrutiny Committee who had no conflict of interest and were not local ward members;
3. as a matter of course to invite local ward member/s to attend the review;
4. Scrutiny Committee members not on the panel or invited to attend as local ward members be permitted to attend to observe only; and
5. not be open to the public.

RESOLVED (1) that the change in the process for determining a review of a decision to include land/property on the list of assets of community value so that a review hearing will be undertaken by a panel of three members of the Scrutiny Committee supported by the Chief Executive/member of Corporate Management Team, be noted, adopting the protocol above;

RESOLVED (2) that Councillors M O A Dewdney, K J Ross and B Heywood of the Scrutiny Committee be appointed to form a panel to hear reviews of the Cabinet's decisions to list the Minehead Old Hospital and Silk Mills, Holford as Assets of Community Value, on dates to be arranged by the Scrutiny and Performance Officer.

Note: that a change to the membership of the panel for the Minehead Old Hospital review was necessary as Councillor Dewdney indicated that he was not available on the arranged date of 28 March 2013, and Councillor P Grierson agreed to attend.

SC88 Verbal update on Task & Finish Reviews & Joint Review of Flooding

- Section 106 Planning Obligations Task and Finish Group
The Scrutiny and Performance Officer reported that the group would hold its final meeting on 3 April after which the final report would be presented to the Committee. The group has held in depth discussions with relevant officers and considered the process and delivery of the scheme. So far, possible areas identified for potential improvement included bringing local ward members into the system, working more with relevant parish and town councils and building up an evidence base.

The Corporate Manager confirmed that communication with the parish and town councils had needed improvement and that the issues had been addressed within the previous 4-6 months. He welcomed any suggestions for improvement that would help the Council manage the process more effectively.

Concern was raised regarding groups who might not be able to apply through their parish/town council due to timescales and would not be included in the parish/town council's priorities.

It was requested that the Task and Finish Group look at whether parish/town councils were able to identify priorities outside of their community, such as the shared use of sports facilities with a neighbouring parish/town.

- Business Rates Retention Scheme Task and Finish Group

The Scrutiny and Performance Officer advised that the group held their first meeting on 27 February. The general aim was to identify the financial impacts on the new Business Rates Retention Scheme and examine the process and impacts. A new scheme would come into force on 1 April 2013 and would make the Council liable for a percentage of its Business Rates that remain uncollected which would, in turn, negatively impact the Council's resources. The group had identified how performance management could be improved through the quarterly performance management report. The group's investigations will include looking at neighbouring authorities' recovery procedures.

The Scrutiny and Performance Officer suggested that the Scrutiny Committee may wish to arrange a meeting in May in order to consider the final reports of the Business Rates Retention Scheme Task and Finish Group and the Section 106 Planning Obligations Task and Finish Group, and to receive an update from Steve Read, Managing Director, Somerset Waste Partnership.

- Joint Review of Flooding

Councillor S Dowding reported on the Flooding Conference held the previous week attended by the Somerset authorities and representatives from many other organisations and groups. The focus was not to apportion blame but how to overcome the obstacles for the future. The Met' Office advised that the jet stream had moved south and so the county could expect similar recent rainfall over the next ten years. The Country Land and Business Association would not be able to continue providing the level of support as in the past and therefore it was essential to encourage land owners and householders to, where possible, undertake the work of monitoring/clearing water courses. It was proposed that an action list of who is responsible for what, how it will be done and who will pay for it would be produced.

In response to concerns the Corporate Manager advised that he would look at the Council's responsibilities regarding the monitoring of its water courses/rhynes. He advised that the Council was looking at local areas that had been affected by the flooding and that preventative work would be undertaken.

It was suggested that the appropriate Corporate Manager report back to the Committee on his findings.

RESOLVED (1) that a Special Meeting of the Scrutiny Committee be held 20 May 2013, at 3.30pm in the Council Chamber, Williton.

RESOLVED (2) that the verbal updates on the Section 106 Planning Obligations Task and Finish Group, Business Rates Retention Scheme Task and Finish Group and Joint Review of Flooding, be noted.

SC89 **Scrutiny Committee Workplan Review**

(Scrutiny Committee Workplan, circulated with the Agenda).

Councillor R Lillis requested that perhaps Minehead Eye be invited to attend a meeting of the Scrutiny Committee in order to gain an understanding of their work, future objectives and financial position.

RESOLVED (1) that MAGNA be invited to provide a half yearly update to the Scrutiny Committee, at its meeting scheduled for 22 April 2013;

RESOLVED (2) that the Managing Director for Somerset Waste Partnership, be invited to provide an update report to the Scrutiny Committee, at its special meeting scheduled for 20 May 2013;

RESOLVED (3) that the date of 20 May 2013 be scheduled for the final report of the Section 106 Planning Obligations Task and Finish Group to report back to the Scrutiny Committee;

RESOLVED (4) that the date of 20 May 2013 be scheduled for the Business Rates Retention Scheme Task and Finish Group Task and Finish Group to report back to the Scrutiny Committee;

RESOLVED (5) that an invitation be extended to Minehead Eye to attend a future Scrutiny Committee, to provide an understanding on their current work, future objectives and financial standing;

RESOLVED (6) that the Workplan be noted.

The meeting closed at 5.32 pm.

Meeting: CABINET

Date: 3 APRIL 2013

NOTES OF KEY DECISIONS

Note: The details given below are for information and internal use only and are not the formal record of the meeting

AGENDA ITEM	DECISION	CONTACT LEAD OFFICER
Forward Plan (Agenda Item 5)	Agreed that, subject to adding 'Non-Domestic Rates – Section 49 Hardship Relief Policy' for June, the Forward Plan published 19 March 2013 be approved.	Corporate Director
Cabinet Action Plan (Agenda Item 6)	Agreed that the following items be deleted as actioned: (i) CAB111 – Council Tax Support Discretionary Payments Scheme. (ii) CAB112 – Discretionary Housing Payments. (iii) CAB113 – Policy for Charging for Pre-Application Planning Advice.	Corporate Director
Consideration of nominations received under the Community Right to Bid Legislation (Agenda Item 7)	Agreed (1) that the nomination [ACV018] for the Bicknoller Inn to be listed as an Asset of Community Value, be accepted. Agreed (2) that the nomination [ACV020] for Summerland Place Public Convenience, Minehead to be listed as an Asset of Community Value, be accepted. Agreed (3) that the nomination [ACV021] for Quay West Public Convenience, Minehead to be listed as an Asset of Community Value, be accepted.	Corporate Director
Request for Allocation of Planning Obligations Funding (Agenda Item 8)	Agreed (1) that the allocation of £10,000 for the Minehead hub project be agreed. Agreed (2) that the allocation of £10,000 for the Minehead EYE bouldering wall project be agreed. Agreed (3) that the allocation of £2,980 to provide signage in Minehead be agreed. Agreed (4) that the allocation of £3,500 for Crowcombe play equipment be agreed. Agreed (5) that the allocation of £4,000 of the £7,500 Hinkley Point Community Outreach Operational budget to support the transport of individuals to employment and training opportunities be agreed.	Corporate Manager Housing, Welfare and Economy
Sale of Council Owned Land in Simonsbath (Agenda Item 9)	Agreed (1) that Cabinet recognised and agreed that the sale of the site at Simonsbath for the purpose(s) referred to in the report would improve the economic well-being of the area and of the people whilst also improving the environmental well-being of the area. Agreed (2) that the sale of the land to Exmoor National Park Authority (ENPA) for the sum of £20,000 be approved, as outlined in Appendix A to the report. Agreed (3) that delegated authority be granted to the Chief Executive, in consultation with the Lead Member for Resources and Central Support, to agree, subject to legal advice, the covenants associated with the sale that protects the Council's decision to dispose of the site for an undervalued amount.	Chief Executive

Commissioning of Property Consultants (Agenda Item 10)	<p>Agreed (1) that the waiving of Contract Standing Orders relating to the tendering process for the appointment of property consultants to assist with the disposal of those assets referred to in paragraph 4.3 of the report be approved.</p> <p>Agreed (2) that Bruton Knowles are appointed as property consultants to assist with the disposal of those assets referred to in paragraph 4.3 of the report, and that the terms and conditions of the appointment are those included at Appendix A to the report.</p> <p>Agreed (3) that in accordance with Financial Regulation FR 6 (7), a project team consisting of three Members, to be appointed by full Council, and the Chief Executive to monitor and oversee the three projects be established.</p>	Chief Executive
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For a record of the reasons for the decision; details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made; a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service, please use the attached link below, to the Council's website where the minutes and relevant reports can be viewed: -

<http://www.westsomersetonline.gov.uk/Council--Democracy/Council-Meetings/Cabinet-Meetings/Cabinet--3-April-2013>

Date: 4 April 2013

Weekly version of Forward Plan published on 10 April 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/13/5/01 15/01/13	8 May 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/13/5/02 19/03/13	8 May 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/13/5/03 25/09/2012	8 May 2013 By Councillor K V Kravis – Lead Member Resources & Central Support	Title: Implementing Value for Money Strategy Decision: to agree way forward to implement Value for Money Strategy.		No exempt / confidential information anticipated	Adrian Dyer, Chief Executive 01984 635212
FP/13/6/01 25/09/2012	5 June 2013 By Councillor K V Kravis – Lead Member Resources & Central Support	Title: Cabinet Appointments on Outside Bodies 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

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FP/13/6/02 13/02/2013	5 June 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/13/6/03 3/04/2013	5 June 2013 By Councillor K V Kravis – Lead Member Resources & Central Support	Title: Non-Domestic Rates – Section 49 Hardship Relief Policy Decision: To update the Council's current policy		No exempt / confidential information anticipated	Adrian Dyer, Chief Executive 01984 635212
FP/13/6/04	5 June 2013 By Councillor C Morgan – Lead Member Environment	Title: Quantock Hills AONB – New Constitution Decision: To note the new Constitution		No exempt / confidential information anticipated	Angela Lamplough, Climate Change & Community Liaison Manager
FP/13/7/01 25/09/2012	3 July 2013 By Councillor K V Kravis – Lead Member Resources & Central Support	Title: Allocation of Section 106 funds held – Quarter 1 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	Title: Corporate Performance & Budget Monitoring Report 2012-13 – Quarter 4 Decision: to provide Members with an update on progress in delivering corporate priorities,		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200

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
	Support	performance of council services including budgetary information and customer satisfaction.			
FP/13/7/03 25/09/2012	3 July 2013 By Councillor K V Kravis – Lead Member Resources & Central Support	Title: Review of Financial Regulations [FR2] 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: Medium Term Financial Plan Update Decision: to present the updated Medium Term Financial Plan.		No exempt / confidential information anticipated	Section 151 Officer 01984 635253 01823 355482
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/13/7/06 25/09/2012	3 July 2013 By Councillor D J Westcott – Lead Member Community and Customer	Title: Review of Customer Access Decision: to review customer access.		No exempt / confidential information anticipated	Steve Watts, Group Manager Environment, Customer and Community 01984 635261
FP/13/7/07 25/09/2012	3 July 2013 By Councillor K V Kravis	Title: Budget Strategy Update Decision: to advise members of		No exempt / confidential information anticipated	Adrian Dyer, Chief Executive 01984 635212

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	- Lead Member Resources & Central Support	the progress to date in formulating a new budget strategy to succeed the current strategy.			
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 13/02/2013	4 September 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/13/10/01 25/09/2012	2 October 2013 By Councillor K V Kravis – Lead Member Resources & Central Support	Title: Allocation of Section 106 funds held – Quarter 2 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 –	Title: Corporate Performance & Budget Monitoring Report 2013-14 – Quarter 1 Decision: to provide Members		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200

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	Lead Member Resources & Central Support	with an update on progress in delivering corporate priorities, performance of council services including budgetary information and customer satisfaction.			
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 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/13/12/01 23/11/2012	4 December 2013 By Councillor K V Kravis – Lead Member Resources & Central Support	Title: Review of Financial Regulations [FR2] 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	4 December 2013 By Councillor T Taylor – Leader of Council and Councillor K V Kravis – Lead Member Resources & Central Support	Title: Corporate Performance & Budget Monitoring Report 2013-14 – Quarter 2 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

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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: Fees and Charges 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
FP/14/1/02 18/01/2013	8 January 2014 By Councillor K V Kravis – Lead Member Resources & Central Support	Title: Allocation of Section 106 funds held – Quarter 3 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	8 January 2014 By Councillor K V Kravis – Lead Member Resources & Central Support	Title: Draft Capital Programme 2013-14 and Capital Strategy 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
FP/14/1/04	8 January 2014	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/14/2/01 18/01/2013	5 February 2014 By Councillor K V Kravis – Lead Member Resources & Central Support	Title: Annual Budget & Council Tax Setting 2014-15 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
FP/14/2/02 18/01/2013	5 February 2014 By Councillor T Taylor – Leader of Council	Title: Draft Corporate Plan for 2014-15 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: Corporate Performance & Budget Monitoring Report 2013-14 – Quarter 3 Decision: to provide Members with an update on progress in delivering corporate priorities, performance of council services		No exempt / confidential information anticipated	Bruce Lang, Corporate Director 01984 635200

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FP/14/3/02 19/03/2013	5 March 2014 By Councillor D Westcott – Lead Member for Community and Customer	including budgetary information and customer satisfaction. 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 Resources & Central Support	Title: Allocation of Section 106 funds held – Quarter 4 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/14/4/02 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

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.

Report Number: WSC 56/13
Presented by: The Task & Finish Group
Author of the Report: Sam Rawle, Scrutiny & Performance Officer
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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

Description	Likelihood	Impact	Overall
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 20th 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.

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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SCRUTINY COMMITTEE – 12- MONTH WORKPLAN – 2012/13

2012	18 June	16 July	20 August	22 October	19 November	17 December	2013	21 January	18 February	18 March	22 April	20 May
Notes of key Cabinet Decisions/Action Points	Notes of key Cabinet Decisions/Action Points	Notes of key Cabinet Decisions/Action Points	Notes of key Cabinet Decisions/Action Points	Notes of key Cabinet Decisions/Action Points	Notes of key Cabinet Decisions/Action Points	Notes of key Cabinet Decisions/Action Points	Notes of key Cabinet Decisions/Action Points	Notes of key Cabinet Decisions/Action Points	Notes of key Cabinet Decisions/Action Points	Notes of key Cabinet Decisions/Action Points	Notes of key Cabinet Decisions/Action Points	Notes of key Cabinet Decisions/Action Points
Cabinet Forward Plan	Cabinet Forward Plan	Cabinet Forward Plan	Cabinet Forward Plan	Cabinet Forward Plan	Cabinet Forward Plan	Cabinet Forward Plan	Cabinet Forward Plan	Cabinet Forward Plan	Cabinet Forward Plan	Cabinet Forward Plan	Cabinet Forward Plan	Cabinet Forward Plan
Final Report of Community Safety Task & Finish Group	Police and Crime Panel Update	Community Safety – Annual Report	Magna – Annual Report	Appeal Against an Asset of Community Value	Financial Standing and MTFP 2013/14 to 2015/16	Corporate Performance & Budget Monitoring 2012-13 – Quarter 3	Review of Asset of Community Value	Magna half yearly update report	Presentation from Minehead EYE	Final Report of the Business Rate Recovery Task and Finish Group	Final Report of the Planning Obligations & Section 106 Process Task and Finish Group	Final Report of the Business Rate Recovery Task and Finish Group
New Financial System	Corporate Performance & Budget Report – Quarter 1 2011/12	Corporate Performance & Budget Report – Quarter 2 2011-12 – Quarter 2	Corporate Performance & Budget Report – Quarter 1 2011/12	Corporate Performance & Budget Monitoring 2011-12 – Quarter 2	Draft Localised Council Tax Benefit Scheme	Veolia Service Level Agreement	Council Tax Consultation	Fraud Task & Finish Group	Scrutiny Committee Workplan Review	Scrutiny Committee Workplan Review	Scrutiny Committee Workplan Review	Scrutiny Committee Workplan Review
Visit to Greater Manchester Waste Treatment & Recycling Facility – Update	Williton Hospital - Update	Scrutiny Committee Workplan Review	Scrutiny Committee Workplan Review	Scrutiny Committee Workplan Review	Scrutiny Committee Workplan Review	Scrutiny Committee Workplan Review	Scrutiny Committee Workplan Review	Scrutiny Committee Workplan Review	Scrutiny Committee Workplan Review	Scrutiny Committee Workplan Review	Scrutiny Committee Workplan Review	Scrutiny Committee Workplan Review

Task & Finish Group Work In Progress:
Review of S106 Process

Task & Finish Group Work to be scheduled:
Review of Business Rate Recovery Process
GP Out of Hrs

Meetings of Joint Waste Scrutiny Panel:
(WSC Reps, Cllrs, Freeman & Lillis)
18 January, 2013 – 10am TDBC