

SWT Scrutiny Committee - 12 June 2019

Present: Councillor Gwil Wren (Chair)

Councillors Ian Aldridge, Sue Buller, Norman Cavill, Caroline Ellis (In place of Phil Stone), John Hassall, John Hunt, Marcus Kravis, Sue Lees, Libby Lisgo, Dave Mansell, Hazel Prior-Sankey, Nick Thwaites, Danny Wedderkopp and Keith Wheatley

Officers: Tim Bacon, James Barrahan, Nick Bryant, Paul Fitzgerald, Chris Hall, Laura Higgins, Gerry Mills, Marcus Prouse and Clare Rendell

Also Present: Councillors Chris Booth, Hugh Davies, Habib Farbahi, Mike Rigby, Francesca Smith, Federica Smith-Roberts, Brenda Weston and Loretta Whetlor

(The meeting commenced at 6.15 pm)

1. **Appointment of Vice-Chair**

Resolved that Councillor L Lisgo be appointed Vice-Chair of the Scrutiny Committee for the remainder of the Municipal Year.

2. **Apologies**

An apology was received from Councillor P Stone.

3. **Minutes of the previous meeting of the Scrutiny Committee**

(Minutes of the meeting of the Shadow Scrutiny Committee held on 14 March 2019, Taunton Deane Borough Council (TDBC) Scrutiny Committee held on 5 March 2019 and West Somerset Council (WSC) Scrutiny Committee held on 14 February 2019 circulated with the agenda)

Resolved that the minutes of the Scrutiny Committees be noted.

4. **Declarations of Interest**

Members present at the meeting declared the following personal interests in their capacity as a Councillor or Clerk of a County, Town or Parish Council or any other Local Authority:-

Name	Minute No.	Description of Interest	Reason	Action Taken
Cllr N Cavill	All Items	West Monkton	Personal	Spoke and Voted
Cllr C Ellis	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr J Hunt	All Items	SCC	Personal	Spoke and Voted
Cllr S Lees	All Items	Taunton Charter	Personal	Spoke and Voted

		Trustee		
Cllr L Lisgo	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr D Mansell	All Items	Wiveliscombe	Personal	Spoke and Voted
Cllr H Prior-Sankey	All Items	SCC & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr D Wedderkopp	All Items	SCC & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr G Wren	All Items	Clerk to Milverton PC	Personal	Spoke and Voted

5. Public Participation

Agenda Item 6 – Scrutiny Work Programme – Watchet Library Transfer.

Councillor John Irvén, Chairman of Watchet Town Council (WTC), spoke about an item on the work programme that had been scheduled for 17 July 2019 – Watchet Library transfer.

Briefly, in order to prevent its closure WTC requested a freehold asset transfer of Watchet Library as a condition of funding a Conservation Leadership Programme (CLP) where WTC covered all building costs and liabilities. The initial request was rejected by WSC’s Asset Management Team in closed session, despite evidence that the building was gifted by L. L. Stoa to the people of Watchet and only held in trust by WSC for Somerset County Council (SCC) to lease and operate the library.

WTC’s argument, supported by legal opinion, had to be taken directly to the leaders of WSC and TDBC to obtain a review which led to a published decision to transfer the asset which stated “the freehold transfer of the building was viewed as the most appropriate way of enabling library services to continue, via a CLP between WTC and SCC.”

Officers were delegated to finalise terms, which initially included an overage clause clawing back any increase in value. WTC rejected this as you would be in breach of your duties as trustees by keeping an option to benefit financially from an asset you hold in trust. Officers acknowledged the trust status and agreed to remove overage.

However, a remaining clause granting a pre-emption right to Somerset West and Taunton Council (SWT) to take back the freehold was considered inappropriate because SWT has not demonstrated its ability to discharge its duty to protect the asset for the trust, rather than acting in its own interest.

WTC proposed instead more appropriate means of asset protection of the trust, of which my colleague Peter Murphy of Watchet Library Friends would give more detail. This remaining issue was therefore to be taken back to a Senior Leadership Team (SLT) meeting, where WTC were assured that the matter would be revisited and that the normal democratic route of Scrutiny, Executive and Council would be followed in the interests of openness and transparency. However, we have been told that the closed SLT session decided not to do this whilst reinstating the overage clause.

We ask for your help and noted that at the WSC Cabinet meeting held on 9 January 2019, he requested ‘that the governance of your asset management process be reviewed to ensure that such problems could be avoided as WSC

transitioned into the new council structure.’ Although unanswered by WSC, we were assured the new council would resolve this, but it appeared SWT had exacerbated the issue with governance which I suggested was still not fit-for-purpose.

I would ask that the Scrutiny Committee agreed to consider the transfer to ensure the process was open and transparent and resolved to WTC satisfaction.

Peter Murphy, Chair of Watchet Library Friends (WLF), spoke and gave more background information, Leonard Laity Stoate, a Watchet philanthropist purchased the old lifeboat station from Watchet Urban District Council, refitted it and ‘gifted it back to the people of Watchet for the West Somerset District Council to hold in trust for the inhabitants of Watchet to be used as a library. This was recorded in the lease of 1951 whereby the SCC took on a full-repairing responsibilities for 99 years to run a library service from the building.

In 1974, the building and its responsibilities under the trust passed to the newly formed WSC.

In 2011 when SCC threatened the closure of the library, WTC offered to take the building back which was refused. WLF joined a successful Judicial Review of the County’s decision undertaken by Friends of Somerset Libraries and the library remained open. A descendant of Leonard Laity Stoate joined us at the hearings at the High Court in Birmingham in support of the legal action.

During the latest review of library services, WLF supported WTC in its offer to establish a CLP by taking the building back and fulfilling the terms of the trust. In the face of an initial refusal by WSC to return the building or acknowledge the existence of the trust, WLF obtained letters from descendants of Leonard Laity Stoate which supported WTC’s position. WSC subsequently agreed to transfer the building.

Currently SWT’s position was to include in the deed of transfer overage and pre-emption clauses which WLF consider acted against the spirit of the trust by seeking to profit from it whilst doing nothing to carry out the obligations of the trust to provide library services in Watchet. This might be ultra-vies and open to legal challenge, with the Nigel Stoate letter that indicated “should it be required, I reserved the right to bring further action if the parties failed to protect the charitable gifts of Leonard Laity Stoate in a manner consistent with the trusts”. WTC had proposed maintaining the building on the Community Asset Register and consulted WSC, the people of Watchet and the descendants of the trust should the building be considered no longer fit to use as a library, a proposal which we believed did meet the Stoate criteria. If Town and District Councils cannot agree, WTC had the option to cancel the CLP and the library would close. WLF appeal to this Scrutiny Committee to encourage SWT to work with the community of Watchet in the spirit of the original trust and enable WTC to properly discharge the responsibilities it wished to take on for the inhabitants of Watchet.

Councillor Loretta Whetlor spoke in support of Councillor John Irven and Peter Murphy.

Chris Hall, Locality Manager gave the following response:

The Council though an Executive decision agreed to transfer the freehold of the Watchet Library to WTC to support the Library Partnership.

The Council stood by this decision and had been working with WTC to finalise the terms of the transfer.

SWT were protecting the asset for the people of Watchet and sought to continue the protection provided since 1951 through the terms of the transfer.

The clauses of pre-emption and overage were not considered unreasonable when handing over an asset for less than any market rate, in this case the asset was to be handed over for the sum of £1.

WTC wished for the asset to be transferred for £1 without those protections being put in place by SWT.

Those protections in no way impacted on the use of the building as a library which was WTC's stated use of the asset.

The clauses would only come into effect in the event of a change of use or in the event that WTC would wish to dispose of the asset, therefore ceasing to use it as a library.

The letters from Mr Nigel Stoate (family descendant) were not understood to be direct responses to the clauses, but more general statements concerning how the asset was protected for the people of Watchet. If read literally the letter challenged the Council's ability to dispose of the asset at all.

The concerns from WTC and the Stoate family could be better understood if SWT were proposing to sell the asset on the open market, placing the library at risk, which to his knowledge had not been proposed at any stage.

Through the proposed clauses the Council was not trying to make an income but protect the asset from other uses as was the view of the spirit of the trust. It should be noted that there was no trust deed but the Council accepted the existence of the trust at the time the lease was entered into.

He urged the Scrutiny Members to support the position being taken to protect the asset for the people of Watchet through these reasonable clauses.

Agenda Item 11 – Regeneration of Firepool

Dr Susie Peeler spoke on behalf of the Extinction Rebellion Taunton (ERT).

ERT might have a reputation for causing lots of big disruptions but they also wanted to help build communities and wellbeing within Taunton. So their idea for the Firepool space involved two stages. Initially they proposed a creative re-wilding, this would involve using the space for a meal share, re-wilding, sustainability workshops etc which would bring in plants and creative projects that people of all ages and ethnicities could get involved with.

In the longer term ERT saw the space as giving an ideal opportunity to show the region that Taunton was indeed a garden town and would like to suggest the site be used as an environmental education centre that focused on practical projects around re-greening and planting for a carbon reducing future.

ERT's vision was that this site could be used for something like 'We the Curious' in Bristol or even an opportunity for showcasing sustainable alternatives such as the 'Centre for Alternative Technology' in Wales.

Their longer term view for the Firepool development could incorporate a community wooded/orchard type space, a space to benefit the health and wellbeing of the whole community not something that just produced profit for the few.

SWT had declared a climate emergency. This was a fantastic start! What ERT knew about climate change was that too much carbon dioxide was still be emitted

into the atmosphere. This was not something far away and irrelevant. We needed to act now the Intergovernmental Panel on Climate Change (IPCC) report (2018) stated that global warming was likely to reach 1.5°C between 2030 and 2052 if it continued to increase at the current rate. This would cause sea level rise, mass extinctions of animals, climate-related risks to health, livelihoods, food security, water supply, human security, and economic growth.

The IPCC also stated that pathways limiting global warming to 1.5°C with no or limited overshoot would require rapid and far-reaching transitions in energy, land, urban and infrastructure (including transport and buildings). Many of the current ideas for Firepool involved yet more building using concrete. Commercial and public buildings were responsible for 3.6 gigatonnes of carbon dioxide production per year (New Internationalist June 2019 p22). Yet we knew that halting deforestation and actively planting trees could reduce carbon emissions by 2 gigatonnes per year (New Internationalist June 2019)

What better way was there to remove carbon and to provide habitats for animals and community sustaining spaces than creating our own environmental education centre surrounded by trees and a dedicated creative community space?

If the Firepool site was planted with fruit trees and willow structures for example this would actively reduce the CO2 levels, promote oxygen levels and provide a space for the community to enjoy.

We would like to make this a community project harnessing local skills and thus reducing cost for the Council, ERT could provide trees for this project and manpower to water and tend. We also saw this as an inclusive project encouraging all sectors of the community to be involved.

To conclude our vision was a short term experience that could show the sustainable potential for the space and a longer term green initiative that could make a huge impact on Taunton as a garden town and indeed the planet.

6. **Work Programme Scrutiny**

During the discussion, the following points were raised:-

- The Chair suggested that the Watchet Library item was added to the Work Programme for the July meeting and that the officers progressed with the report with that deadline in mind.
- Councillors requested clarification on how to add items to the Work Programme.
The Governance and Democracy Specialist clarified the process.
- Councillors made suggestions on how to work moving forward with the Scrutiny Work Programme.
The Chair agreed with the idea for an informal Scrutiny meeting and would follow up with the clerk to arrange.
- Councillors gave positive feedback on the training they had received on Scrutiny and requested that the portfolio holder information was added to the Work Programme.

Resolved that the Scrutiny Work Programme was noted.

7. **District wide Local Plan: Local Development Scheme**

During the discussion, the following points were made:-

- Councillors queried once the document had been completed in 2021, how much weight it would hold.
In this country there was a plan led system in law, however, we delivered in a 'nuance' system where decisions were made in accordance with the government plan unless material consideration indicated otherwise.
- Councillors queried whether the document was able to adapt to the continually changing targets set by Central Government.
Policy and legislation was constantly changing and officers were used to dealing with that.
- Councillors requested clarification on the statement 'the plan was to give the local community certainty' and concern was raised over individual planning decisions and that the plan would not carry much weight.
- Councillors queried what the plan's remit was? Concern was raised on issues with local infrastructure.
- Councillors requested that officers incorporated into the plan any expected conditions for planning applications to address climate change matters.
The Chair advised that comments could be addressed in the consultation and as part of councillor engagement. The Head of Strategy advised that the policy was positively worded, so it gave information on what applicants could do rather than what they could not do, however, developers worked around that. The Planning Committee would need to be aware of that.
- Councillors highlighted how infrastructure and climate change were included in the plan. They further queried how community engagement was carried out in the rural areas as they were not mentioned. They suggested that the wording used for climate change was not strong enough and that they needed to include that the Council was working toward carbon neutrality by 2030.
- Councillors requested that points were added to the document about solar panels and electric car charging points.
- Concern was raised that the Government's figures on housing needed to be revised as the original figures were too high.
- Councillors also wanted to amend the recommendation to read that any amendments were made in agreement with the portfolio holder instead of in consultation.
That would be addressed when the recommendations were put to the vote.
- Concern was raised that there was no up to date countywide transport strategy included.
The Chair agreed that although SWT had no direct responsibility for transport that we should be enabling that.
- Concern was raised that several stakeholders had not been involved.
- Councillors requested improved religious information was included in the plan.
- Councillors queried when in 2021 would the document be adopted. They further requested that officers could improve the wording used as the whole document was in 'corporate speak'.
- Councillors requested that the percentage of affordable housing was revised to include an amount of passive housing.

- The Chair advised that although it was a SWT document, that information from the Somerset County Council and Exmoor National Park should not be excluded.

Councillor Mansell proposed the following amendment to the motion:

That the following wording be added to the first bullet point 'with the addition of working towards carbon neutrality within the key drivers'.

That was seconded by Councillor Buller. The amendment was put to the vote and lost.

Resolved that with regard to the production of the District wide Local Plan, Scrutiny Committee recommended to Executive that:

- Executive approved the Local Development Scheme (enclosed as Appendix 1); and
- Delegated authority was given to the Head of Strategy to agree any necessary final amendments prior to its publication in agreement with the Portfolio Holder for Planning and Transport.

8. **District wide Local Plan: New Member Steering Group - Nominations**

Resolved that with regard to the production of the Review of the District wide Local Plan, Scrutiny Committee recommended to Executive that:

- A cross working party was set up to support the Review Local Plan.
- 8 Members were nominated to sit on the new Local Plan Member Steering Group.
- The Portfolio Holder for Planning and Transport and/or Chair would give a verbal update at the meeting on the nominations to the new Member Steering Group.
- The Member LDF Steering Group would run until the District wide Local Plan was adopted by the Council and would meet on average on a quarterly basis. The draft terms of reference were enclosed as Appendix 1.
- To remove the text 'and have in the past been actively involved in this process' from section 5.2 in the report.

9. **Statement of Community Involvement (SCI): Draft for Consultation**

During the discussion, the following points were raised:-

- Councillors requested that the list of stakeholders needed to be checked as they had spotted some inaccuracies. Also, there were no provisions mentioned on how they were going to consult in the unparished area of Taunton.

Resolved that with regard to the production of the Statement of Community Involvement (SCI), Scrutiny Committee recommended to Executive that:

- Executive approved the contents of the draft SCI document (enclosed as Appendix 1); and
- Delegated authority was given to the Head of Strategy and the Principal Planner Specialist to agree any necessary final amendments prior to its publication for consultation in agreement with the Portfolio Holder for Planning and Transport.

10. **Local Plan Issues Document - Approval for Public Consultation**

During the discussion, the following points were made:-

- Councillors queried whether they could recommend changes to the document. They suggested that due to the Council's commitment to climate change, the wording needed to be checked and they wanted to know how Planning could be immobilised to deliver on climate change. *The Chair suggested that they proposed an amendment to the recommendation when they were addressed at the end of the discussion. The Head of Strategy advised that they would look to incorporate climate change more robustly in the papers and would make it clear that the Council had declared a climate emergency.*

Resolved that the Scrutiny Committee recommended to Executive they resolved to:

- Approve the Somerset West and Taunton Local Plan Issues Document for public consultation (Appendix A);
- Authorise the Head of Strategy to make any necessary editorial corrections and minor amendments to the documents, and to agree the final publication style.
- To clearly reference council policy to make Somerset West and Taunton carbon neutral by 2030 in the Local Plan Issues document.

11. **Regeneration of Firepool Report**

During the discussion, the following points were raised:-

- Councillors were excited about the project.
- Concern was raised on the comment made that SWT sought a development partner or investor and was led to believe that SWT would then be working in partnership which they did not want. Further concern was raised that the exchange would happen whilst the completion date was still being debated. They highlighted that the advice given was clear to re-examine the option of a third party to take on some of the financial risk. *The Head of Commercial Investment confirmed that the hotel partner would be an investor. That was the same as other land deals, some had a prescriptive approach and wanted flexibility. He also confirmed that there was a completion date for the exchange.*
- Councillors were unaware of the capacity of the performance venue and queried whether figures from Cardiff and Bristol had been used which was not appropriate as they would be on a much larger scale than the Firepool venue. *Officers were working on the specification for what the capacity would be for the performance venue.*
- Councillors had been contacted by members of the public with concerns that another large supermarket was being placed on site and they wanted reassurance that it was a small 'express' sized shop. *The Head of Commercial Investment confirmed that the supermarket would be an 'express' sized property.*
- Concern was raised that the hotel had now been placed in a specified location when they had been advised it could be changeable. *The hotel had been placed in block five as it sat nicely within that location.*
- Councillors wanted reassurance that the area would be well lit and made safe for all those that used the site. *Officers were working on the boulevard safety aspects.*

- Concern was raised on flooding in the area.
- Councillors had visited other buildings which could offer a good starting point for the project and suggested that a conference facility should be built with a hotel attached.
The Head of Commercial Investment was happy to discuss any ideas with Councillors.
- Councillors suggested avoiding the use of a single developer and that it was a good idea to keep SWT as the master planner.
- Councillors highlighted the importance of tree planting throughout the development to help mitigate against climate change and help alleviate flood risk.
- Councillors suggested that SWT should work with the Environment Agency to introduce a hydroelectric generation project along the weir.
- Councillors highlighted that they did not want the Firepool Project to end up as any other typical development and wanted to ensure it was an 'eco' project that was community led.
The Head of Commercial Investment advised there were grants available for both tree planting and hydroelectric projects.
- Councillors suggested that officers should use other projects for guidance on power generation.
Officers would approach the Environment Agency for guidance.
- Councillors were interested in revenue generation.
The Head of Commercial Investment advised there were solid business cases for income generation.
- Concern was raised on the visuals used in the presentation along with the block approach and Councillors wanted to be clear on the intentions of the site, they were not going against the proposals, but wanted to be clear on income generation and community need.
The Head of Commercial Investment understood that the brief was to deliver the master plan which was the outline planning consent. That meant to bring forward the project in a way it would be attractive to market. What had emerged was the wider purpose of the scheme which had been looked at with the intent for the development to take place there was a commercial imperative, therefore the best way to cross subsidise the cost was to include more residential units on the site. The other uses of the site would then compliment the residential units.
- Councillors welcomed the idea of the introduction of a Project Board.
- Councillors wanted to ensure the hotel offered more than majority of the other hotels in the area.
Officers would look at the options available for the development of the hotel.
- Councillors highlighted the increased use of the riverside frontage and concern on the lack of parking in the design.
Officers would check the information included.
- Councillors queried how much CO2 would be produced in the construction of the site.
A written answer would be distributed.
- Councillors queried how much capital would be invested and how much income would be generated for SWT from the project.
A written answer would be distributed.

Resolved for Scrutiny Committee to comment on the report and in particular the following recommendations that would be presented to Executive and Council for approval:

- That the broad principle of the conceptual block plan design was progressed to Framework Masterplan and that indicative designs for all of the blocks were developed. In-particular Blocks 1, 2, and 5 be progressed to detailed business case and to provide authority to appoint a design team following due process.
- To endorse the approach that the Council further considered the business case to act as the lead commercial and masterplan developer and to delegate authority to the Head of Commercial Investment in consultation with the Portfolio Holder to enter into relevant transactions. This would include hard market testing of Blocks 1, 2 and 5 to inform completion of business cases.
- To endorse the principle that the Council might also be the developer of some of the plots each being considered on a case by case basis and subject to a detailed business case and further Council approval.
- To note the review of the Hotel development project, to cease the current Council investment plans and instead to seek a development partner/investor to deliver this scheme as an alternative to the previously approved Council development, and on a different part of the site. A specialist property adviser would be appointed to undertake a thorough hard marketing exercise
- To commission a suitable performance venue expert to establish the business case and conduct soft market testing with suitable operators for such a facility on site.
- To report back with progress as and when required and set up a project governance Board to oversee the direction of the project.
- Approval of a total budget of £275,000 to progress those work streams and that to be funded from New Homes Bonus funds.

12. **Time Extension**

The Chair proposed a 30 minute time extension which was carried.

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

Resolved that the press and public be excluded during consideration of agenda item 12 on the grounds that, if the press and public were present during the 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:

The item contained information that could release confidential information that related to the financial or business affairs of any particular person (including the authority holding that information). It was therefore agreed that after consideration of all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

14. **Confidential Report**

The purpose of the report was to update the Scrutiny Committee on a commercial asset management issue.

Resolved that the Scrutiny Committee commented on the report and made recommendations to be presented to the Executive and Full Council for approval.

(The Meeting ended at 9.45 pm)

DRAFT