

SWT Corporate Scrutiny Committee - 1 June 2022

Present: Councillor Sue Buller (Chair)

Councillors Nick Thwaites, Ian Aldridge, Norman Cavill, Simon Coles, Habib Farbahi, Ed Firmin, John Hassall, Nicole Hawkins, Libby Lisgo, Janet Lloyd and Loretta Whetlor.

Officers: Chris Hall, Joe Wharton, Joanne O'Hara, Paul Fitzgerald, Sam Murrell and Jessica Kemmish

Also Present: Councillors Benet Allen and Federica Smith-Roberts.

(The meeting commenced at 6.16 pm)

1. **Appointment of Vice Chair**

The Committee resolved to appoint councillor Nick Thwaites as Vice-Chair of the Committee.

The Chair thanked councillor Gwil Wren for his work as the Chair of the Corporate Scrutiny Committee since 2019. The Chair outlined that one of the roles of the Corporate Scrutiny Committee this year was to ensure that the Council was prepared for a smooth transition to the new unitary Somerset Council next year.

2. **Apologies**

Apologies were received from councillors Marcus Kravis, Simon Nicholls and Gwil Wren who was substituted by Lloyd.

Councillor Federica Smith-Roberts was attending in place of the Portfolio Holder for Economic Development, Planning and Transportation, Mike Rigby, who had sent his apologies.

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

The Committee resolved to approve the minutes of the previous meeting held on 2nd March 2022.

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 I Aldridge	All Items	Williton	Personal	Spoke and Voted
Cllr N Cavill	All Items	SCC & West Monkton	Personal	Spoke and Voted
Cllr S Coles	All Items	SCC & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr H Farbahi	All Items	SCC	Personal	Spoked and Voted
Cllr L Lisgo	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr J Lloyd	All Items	Wellington & Sampford Arundel	Personal	Spoke and Voted
Cllr F Smith-Roberts	All Items	SCC & Taunton Charter Trustee	Personal	Spoke
Cllr N Thwaites	All Items	Dulverton	Personal	Spoke and Voted
Cllr L Whetlor	All Items	Watchet	Personal	Spoke and Voted

5. Public Participation

No requests for public participation had been received within the required notice period for the meeting.

The Chair updated that the order of the agenda would be changed so that item nine would be considered next, after which, items six, seven and eight would be resumed.

6. Use of Urgency Powers and Supplementary Capital Budget for Coal Orchard Regeneration Project

The Chair advised that there was an addendum to the agenda in addition to the report for this item.

The Portfolio Holder for Corporate Resources introduced the report:

- Midas had completed most of the building of Coal Orchard before the contract with them ceased. The report detailed how urgency powers had been used to enable the authority to intervene at Coal Orchard to ensure the project could continue.
- Coal Orchard should still produce a profit for the Council despite the report detailing that increased funding for the project would now be needed.

The Director for Place and Climate provided a further introduction to the report:

- Had updated the Corporate Scrutiny Committee earlier in the year about the issues around the Midas contract and on the termination of Midas's contract due to poor performance ahead of Midas going into administration.
- The report primarily covered the financial procedures needed on behalf of the Council rather than a project update. It focused around the use of urgency powers.

- An urgency decision was made under the delegations to the Chief Executive due to the urgency of a decision needing to be made meaning that the timeframe of bringing a report to Full Council was not possible. The Chief Executive made the decision to spend £675,000 of funds and the Chair of Corporate Scrutiny at the time was consulted. As part of the Governance process a report on the decision then went to today's meeting of the Committee before it would proceed to Full Council.
- The report also requested approval of an additional £100,000 in terms of capital above and beyond the existing capital programme. This additional funding required a Full Council decision. The project would continue to fund itself in terms of capital.
- Now had to be established as a developer with the National House Building Council (NHBC) due to Midas no longer being involved in the project and a warranty process needed to be established for the properties. As part of that funds needed to be put into an earmarked reserve for the warranties. If a warranty process failed to be set up, then the properties would become un-mortgageable.
- The addendum included a change to how the warranties would be funded as well as some changes to the wording of the recommendations.

During the debate the following points were raised:

- Support was expressed for completing the work at Coal Orchard.
- It was asked what the original anticipated cost of completing the project was, what the current full cost projection for the project was and what the anticipated final outcome cost for the project was. Officers responded that the amount of the original contract and the anticipated final costs were not currently publicly available information due to ongoing negotiations based on the completion of the work so officers would provide a written response to committee members only after the meetings. Once the project was completed the figures would be made publicly available.
- It was asked whether the funding was coming from general reserves or the Future High Streets Fund. If it was coming from the Future High Streets Fund, then it was asked what was being stopped to allow the money to be used for Coal Orchard. Officers responded that the capital allocation included the use of Future High Streets money. This could be done because an aspect of Firepool came in below budget, freeing up the funds to use elsewhere. Although the Future High Street fund had not yet given formal approval for the funds to be used for Coal Orchard they had expressed support for this.
- It was asked if the 40 units mentioned in the report were the number sold or total number available. Officers responded that the 40 units were the total number of units on the site. 11 were rented on block to Plymouth University. Of the remaining 29 units, 26 had been sold.
- It was asked what the actual cost of joining the NHBC was. Officers responded that the warranties with contractors were to do with the contractors warranting for their work for the Council. The warranties for the properties the Council now had to own as the developer. The Council had become the developer because Midas had failed. The Council had to set itself up as a developer with NHBC. This had cost £45,000 but it was a refundable bond, and the money was only held by NHBC in case the Council ceased to be a going concern. In terms of cost, the true cost was therefore £0 to the Council.

These warranties for the properties were not in place with Midas because they went into administration before the warranties were established as it was before the units reached practical completion.

- It was asked why the warranties did not go to each of the contractors. Officers responded that as the developer and seller of the homes when they went to market the Council had to provide the warranties for the properties. However, if something did go wrong then the Council would seek to rely on the individual warranties for different aspects of the properties such as the plumbing.
- It was asked if the earmarked reserve for the warranties had been set up yet or not. Officers responded that the earmarked reserve had not yet been set up.
- It was asked whether the Council had any opportunity to seek recompense from Midas given that the Council had been financially hindered by Midas going into administration. Officers responded that the Council were not on the list of Midas's creditors due to the Council having terminated Midas's contract in advance of them going into administration. Midas did not owe the Council any money nor did the Council owe Midas any money. However, it became apparent that Midas would not have been able to complete the contract. Officers had written to Midas's administrators to notify them of the additional costs to the Council.
- It was asked whether the warranty for the homes at Coal Orchard would be guaranteed by the new unitary Council. Officers responded that they anticipated they would be as the bond would pass to the new authority.

The Committee resolved to note the recommendations included in the addendum to the report:

2.1 Full Council notes the use of urgency powers by the Chief Executive who approved the increased capital budget allocation of £675,000 towards the completion of the Coal Orchard regeneration scheme.

2.2 Full Council notes the allocation of a refundable £45,000 bond to National House Building Council, approved by the S151 Officer and managed through cash flow.

2.3 Full Council approves the transfer of £185,000 from General Reserves to a Coal Orchard Warranty Earmarked Reserve to manage any potential financial liabilities under warranty claims.

2.4 Full Council delegates authority to allocate funds from this reserve and approve related uplifts in relevant budgets to the Director of Development and Place, the Assistant Director Major and Special Projects and the S151 Officer.

2.5 Full Council approves a further supplementary capital budget increase of £100,000 for the Coal Orchard scheme, to be funded by capital receipts.

7. **Corporate Scrutiny Request/Recommendation Trackers**

- The issue of phosphates was raised as a topic for the Corporate Scrutiny Committee to review in future with stakeholders invited to the meeting.
- It was highlighted that the Committee was still awaiting several answers from officers to questions raised at previous meetings. The Scrutiny Officer would

contact the relevant officers to ask them to provide responses and then create a new Written Answer Tracker for the new municipal year.

The Chair noted the request and recommendation trackers.

8. **Corporate Scrutiny Committee Forward Plan**

- It was suggested that a monthly report on progress on Local Government Reorganisation would be a beneficial item for the committee to review.
- It was raised that having clarity on what was within the scrutiny remit of this council versus what was in the scrutiny remit of Somerset County Council would be useful. Officers advised that this could be discussed with the Monitoring Officer and the information then shared with the Committee.
- It was suggested that an update on phosphates be brought to the next Corporate Scrutiny Committee. It was also raised that more communications to the public about phosphates would be beneficial. Officers noted that an update could be brought to a future meeting of the Corporate Scrutiny Committee but that there was also a Phosphates Subcommittee which was dedicated to looking at this issue. Information about phosphates was also available to the public on the Council's website.
- Councillor Hassall left the meeting at this point.
- The importance of the phosphates issue was highlighted and some of the issues around phosphates outlined.
- It was suggested that the Committee reviewing car parking would be worthwhile. The Chair noted that this was an item which was being brought forward to a meeting of the Community Scrutiny Committee.

The Chair noted the Corporate Scrutiny forward plan.

9. **Executive and Full Council Forward Plan**

The Chair noted the Executive and Full Council forward plans.

Councillor Farbahi left the room and Councillor Firmin left the meeting.

- It was raised that clarification was being sought on the contents of the Digital Information Policies which would be going forward to the Executive so a decision could be made about whether these should be reviewed at a scrutiny meeting.

10. **Access to Information - Exclusion of Press and Public (Appendix 1 and 4 only)**

The Corporate Scrutiny Committee resolved that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business (Appendix 1 and 4 only) on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 3 respectively of Part 1 of Schedule 12A of the Act, namely information relating to the financial or

business affairs of any particular person (including the authority holding that information).

11. **Wellington Land Acquisition (The Green Spaces)**

Cllr Farbahi returned to the chamber.

The Leader of the Council introduced the report:

- The report related to land around the Tone Mill area of Wellington and protect open green space for community use.
- As outlined in the report Community Infrastructure Levy (CIL) allocated funds would be used.
- A long-term lease would be granted to Wellington Town Council of 125 years.
- This had been discussed at Full Council before as part of the Council's previous Levelling Up Bid which was unfortunately unsuccessful but another way to proceed with this part of the bid had now been found.

The Assistant Director for Major and Special Projects provided a further introduction:

- Wellington Town Council were supportive of the plans.
- The Council would retain control of the land into the future as it would be leased rather than sold to Wellington Town Council.
- The landowner was willing to sell the land to the Council.

During the Debate the following points were raised:

- It was raised that the purchase of the land for the community would benefit people in Wellington. CIL funds had already been used by Wellington Town Council to purchase land around Wellington however, the Town Council was not able to afford to purchase the piece of land which the report related to. The Town Council was supportive and pleased to be approached by Somerset West and Taunton Council regarding a long-term lease of the land.

The Committee entered confidential session.

The Committee resolved to note the recommendations in the Confidential Appendix 1.

(The Meeting ended at 7.45 pm)