

SWT Community Scrutiny Committee - 30 November 2022

Present: Councillor Libby Lisgo (Chair)

Councillors Dave Mansell, Simon Coles, Tom Deakin, Roger Habgood, Dawn Johnson, Mark Lithgow, Janet Lloyd, Ray Tully and Vivienne Stock-Williams

Officers: James Barrah, Simon Lewis, Kerry Prisco, Paul Fitzgerald, Sam Murrell and Marcus Prouse.

Also Present: Councillors, Francesca Smith, Caroline Ellis and Brenda Weston.

(Hazel Prior-Sankey, Sarah Wakefield and Norman Cavill joined via zoom).

(The meeting commenced at 6.15 pm)

53. Apologies

Cllr Andy Milne, Cllr Steve Griffiths, Cllr Richard Lees, Cllr Andy Pritchard (subs Cllr Loretta Whetlor) joined via zoom and Cllr Martin Peters.

The Chair made the comment that it was shame that substitutions had not been found to fill the vacant seats for the meeting.

54. Minutes of the previous meeting of the Community Scrutiny Committee

The Minutes of the previous meeting of Community Scrutiny Committee held on Wednesday 26 October 2022 were confirmed as a true record.

Prop: Coles / Sec: Habgood - Unanimous

55. 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 S Coles	All Items	SCC, Taunton Charter Trustee & Shadow Taunton Town	Personal	Spoke and Voted
Cllr T Deakin	All Items	SCC, Taunton Charter Trustee & Shadow Taunton Town	Personal	Spoke and Voted
Cllr D Johnson	All Items	SCC & Shadow	Personal	Spoke and Voted

		Taunton Town		
Cllr L Lisgo	All Items	Taunton Charter Trustee & Shadow Taunton Town	Personal	Spoke and Voted
Cllr M Lithgow	All Items	Wellington	Personal	Spoke and Voted
Cllr J Lloyd	All Items	Wellington & Sampford Arundel	Personal	Spoke and Voted
Cllr D Mansell	All Items	SCC	Personal	Spoke and Voted
Cllr R Tully	All Items	West Monkton	Personal	Spoke and Voted
Cllr L Whetlor	All Items	Watchet	Personal	Spoke and Voted

56. Public Participation

Two requests for Public Participation were brought to the committee from Mr Martyn and Mr Taylor on the subject of Blenheim Gardens Café, Minehead. Mr Martyn attended in person, whilst Mr Taylor asked that his written statement was read out by the clerk. Their submissions are below.

1) Mr Steve Martyn

Why this is an issue for Community Scrutiny

The future of Blenheim Gardens is an issue of significant public concern for the people of Minehead and it's surrounding areas. Any decision to sell or lease all or part of the asset should involve consultation with the Minehead community. This did not happen. The Executive Cllrs decision to invite private investment is not something we would disagree with however we have raised real concerns about how the process of selection was handled and the lack of transparency in answering our questions. In the two years since the lease was decided lack of progress and actions by the applicant should by now be ringing alarm bells about their suitability and we strongly recommend that the lease is not signed while a full investigation is carried out.

It came as somewhat of a surprise last week when Executive Cllr M Kravis who decided the lease 3/11/20 voted to support Minehead Town Council's motion to take back control of Blenheim Gardens and cafe'. We recommend viewing this meeting which was digitally recorded 22/11/22

The Jewel in The Crown

- Blenheim Gardens Café falls within the Wellington Square conservation area of Minehead. Covenants protecting the gardens have been in place since 1911. These state that the gardens are a public park for the pleasure of the people of Minehead. No permanent buildings are allowed. The buildings that are there are of timber construction and include a band stand, café, shelter and toilets. Alcohol may not be consumed within the gardens and the gates are locked at dusk.*

The Café:

- *There had been a café in the gardens for 50 years, run by one family. Suzanne Dean was the last tenant who gave SW&T notice in 2018 following a rent increase which she said was unaffordable. There was great sadness when it closed particularly among young families with children and the elderly who used the café as a quiet and peaceful meeting place in contrast to the busy Avenue. The café has now been empty for 4 years and it's condition has visibly deteriorated.*

In 2020 SW&T chose to go to tender

- *Executive Cllr M. Kravis*
- *Five Expressions of interest*
- *A 20 year lease? Why?*
- *Applicant to repair building*
- *Applicant to propose rent*
- *We ask whether any of the applicants were known to the Executive Councillor before the tender?*
- *Has the Executive Councillor had business dealings with any of the applicants before or after the tender?*
- *Has the Executive Councillor rented or occupied premises owned by any of the applicants before or after the tender?*
- *Did the Executive Cllr declare any prejudicial interests before conducting the tender?*
- *Did the five applicants receive the same brief on the same date?*
- *Can we see the brief?*

The Lease - decision 30/10/20

- *The lease was awarded by Cllr M Kravis to Mr W Wynn, Ms L Pegler and Ms J Sherwood of Bar21 in the Avenue Minehead. We have since learned that Ms J Sherwood has left the group following an employment tribunal 29/4/22 claiming breach of contract by Ms L Pegler.*
- *Cllr Kravis stated that the award was based on the financial value, quality and deliverability of the applicant's submission. After two years the café is still closed and without Ms Sherwood a question is raised about the applicant's ability to deliver on the lease.*
- *So who is Bar21? Bar21 along with other large pubs in Minehead caters for the year round holiday business and particularly Butlins. Bar21 has a large outside area of raised decking installed without planning permission. It plays very loud music every day of the week. It's a magnet for groups of young men and is a popular venue for stag and hen parties. It backs onto Blenheim Gardens and is very noisy, not in keeping with the Wellington Square conservation area. Local people complain about the noise which*

can be heard right across Blenheim Gardens and up North Hill, but nothing is done to stop it. When residents met in Blenheim Gardens for the minute of silence on the Sunday before the Queen's funeral, loud music continued from Bar21. Ms Sherwood in the Tribunal stated that that she was increasingly unhappy in her role at Bar21 because of arguments between Ms Pegler and Mr Wynn, which frequently took place within the hearing of customers.

- Did the Executive Cllr consider the way Bar21 is run to be compatible with the operation of a café in a quiet park when making his decision?*
- Bar 21 has a history of planning breaches. There were 6 planning enforcements at the time the tender was decided including it's raised decking.*
- Did the the Executive Cllr take account of Mr Wynn's planning enforcements when making his decision?*
- According to Mr Wynn and his agent the brief was to extend the cafés seating area. Was this the case?*
- Was a requirement to extend the café included in the brief to the other applicants?*
- Mr Wynn's bid £5875 pa x 20 years was 3 times higher than the rent paid by the last tenant, Suzanne Dean who could not make the café pay.*
- Did the Executive Cllr question how the applicant arrived at such a high figure? Was due diligence undertaken to determine a realistic market rent and the applicants ability to deliver on the terms of the lease?*
- Did Mr Wynn's bid not raise questions about the offer being financially viable given that the café would have to operate within the gardens opening hours and adhere to strict no alcohol rules?*
- More than two years have passed since awarding the lease to Mr Wynn during which time the café has remained empty and the agreed refurbishment by Mr Wynn has not been completed.*
- Does the Executive Cllr still feel that Mr Wynn's bid represents the best financial value, quality and deliverability? As Cllr Kravis voted with Minehead Town Council 22/11/22 to take back control we conclude that he has changed his mind.*
- The lease dictated that Mr Wynn should repair the café and get it open. Instead Bar21 submitted a planning application 10/08/22 to turn the café into a 100 seat restaurant open from 7am to 11pm. This application doubled the footprint of the cafe well beyond the area included in the lease. It proposed removing mature trees and laying raised wood decking like Bar21. Over 60 objections were posted on the planning website and a petition against the development with 200 names was presented to MTC. The planning application was withdrawn. We expect another planning application will soon follow unless the lease is stopped.*

What Next?

- *Despite numerous requests for answers to our very reasonable questions nothing has been provided. The process should have been transparent, instead we have met with a shroud of secrecy. We think it warrants scrutiny*
- *And what's happened to the chosen tenant? Wynn, Pegler and Sherwood have fallen out, the repair and reopening of the café has not happened and residents worry with good reason that Bar21 with a lease will re-apply to turn the cafe into a large licensed bar/restaurant operating within Blenheim Gardens, in contravention of its covenants and the will of Minehead's residents.*
- *Such an important and historic public building demands that the people of Minehead must now be consulted to decide it's future.*
- *We understand there was a consultation document circa 2012 which concluded that Blenheim Gardens should remain unchanged. We would like to see this document*
- *On 22/11/22 Minehead Town Council's Full Council Meeting Cllrs M Kravis, T Venner, C Palmer voted in favour of taking back control of Blenheim Gardens including its cafe.*
- *In conclusion the lease must be stopped.*
- ** The information contained in this document has been sourced from local newspapers, online media and discussions with local residents and has not been fact checked. SW&T Asset Management refused to our FOI request for information concerning the lease.*

2) Mr Steve Taylor

Dear Members of the Scrutiny Committee

I and my colleagues would be grateful if you would investigate/scrutinise the process undertaken by Somerset West and Taunton to find a custodian for the café in Blenheim Gardens.

This process has been objected to by numerous MTC councillors (who represent 12000 SWAT residents) and was again a hot topic at the full MTC meeting on 22/11/22. At this meeting a motion had unanimous support to stop SWAT from what they are doing at the café and to take back control of the café.

I believe a viewing of the recording of this meeting will be useful in understanding the strength of the feeling of the Town Councillors

1/ In the Autumn of 2020 Swat were faced with two options to take over the café in Blenheim Gardens:-

- a/ Minehead Town Council with a track record of developing and running community projects and
- b/ William Wynn/Bar 21 who have a track record of planning breaches

SWAT chose Bar 21 over MTC as the better custodian.

Whilst you could not justify this decision in a million years I and the electorate in Minehead would like to know:-

A/ How and why this decision was made and

B/What are they now doing to put that right particularly considering the recent MTC motion.

C/ Why was a history of planning breaches specifically excluded from the assessment matrix

2/ Our MP Mr Liddell-Grainger in his article in the WSFP refers to this process as being under a shroud of secrecy. I have faced the same problem. The current Monitoring officer won't release a single document under a Freedom of Information request. Neither do they answer any emails, I have given up trying. How are the council and its employees to be held to account when they hide from public scrutiny like this. What have they got to hide.

3/ In the 22/11/22 MTC meeting it was announced that councillors Venner, Palmer and Hadley had all made complaints that they did not agree with the procedures taking place. The Monitoring officer at the time rejected their request.

A/ Is it appropriate that the Monitoring officer should deal with objections about their own behaviour.

B/ Can you check whether their objections were investigated properly and by an appropriate person.

4/ The free press and Cllr Allen at the MTC meeting 22/11/22 have confirmed that the current executive officer renegotiated the arrangement with Bar 21 in September converting it to an internal refurbishment from a full refurbishment, and is once again renegotiating the agreement. If I was one of the original bidders I would feel betrayed by these actions. If bar 21 can't perform according to its bid then SWAT should go back to open tenders so we are all able to bid for it, a deal being done in secret behind closed doors is not transparent or fair. I would welcome your views on whether this is:-

A/ open and transparent government and

B/ Legal.

5/ MTC has now made an expression of interest to SWAT to take over the running of the café. Surely the next step under the 2011 localism Act is to go to open bids, can you let me know please. Either way to continue renegotiating an agreement with a third party to undermine this process must be considered questionable. Can you investigate please.

6/ The executive officer in 2020 has now decided his decision was an error as he also voted for the resolution for MTC to take back the café.

7/ I have asked the Leader of the council and Amy Tregellas for their assurance that the executive officer in 2020 was impartial, I have yet to receive that assurance.

8/ It seems unlikely from the information to hand that the Public Services(Social Value) Act 2012 has been taken into consideration at any point in this process. Can you check please?

Whilst your investigations are being undertaken I believe it would be inappropriate for SWAT to continue renegotiating the agreement with Bar 21 and I ask that these are paused. This is even more appropriate when SWAT are in receipt of the Expression of interest under the 2011 Act from MTC.

The Chair, Cllr Lisgo thanked Mr Martin for his participation and bringing his concerns to the attention of the committee. It was unfortunate that there were no Councillors representing Minehead at the meeting. It was apparent that the condition of the café was causing great concern amongst Minehead residents and all parties wanted to bring this matter to a resolution. Cllr Lisgo was unaware when she corresponded with Mr Martin previously that this matter had already been through several channels in the SWT administrative process including Corporate Complaints, Freedom of Information requests, an appeal to the Leader and public participation at the Executive meeting held on the 16 November. A written response from the PFH for Planning, Transport and Economic Development, Cllr Mike Rigby is here: -

“The issues that have been presented to us this evening have already been responded to by the Service, and by the Leader of the Council, and responded to through our complaints procedure at both stage 1 and 2, and through Freedom of Information requests. None of the information this evening is new and has been clearly responded to.

Whilst we welcome public participation in our decisions the responses provided have always been clear and transparent but I will reiterate the headlines for the benefit of the committee.

- The council made the decision to publicly market the opportunity to run the Blenheim Gardens Café, this was advertised in an open fair and transparent manner all documentation was provided equally and in the same timeframe.*
- Information was constant with viewings held for parties that requested them so they could assess the building condition.*
- The timeline for responses was extended to accommodate Minehead Town Council’s request for more time, all parties were notified of this extension of time which was provided to anyone wishing to bid. We also publicised this extension.*
- Potential applicants were not selected to bid, the marketing was public and available to any interested party, there were no exclusions and so to suggest Minehead were not consulted is inaccurate.*

- *The bid responses were assessed by a panel of officers and the Assets portfolio holder.*
- *The lease lengths were put forward by the bidders on the basis of the time they felt necessary to recover their refurbishment costs, none of the bids meet the trigger points under the Localism Act so there is no breach in our duties.*
- *The Council has a duty to achieve best value and has taken a proactive and transparent stance to achieve investment in a property where there was no council budget to make the necessary improvements. It will also achieve an income from this process. The alternative option may have been a permanent closure and demolition.*
- *To suggest that the council lacked judgement and have executed the process poorly suggests a misunderstanding of the entire process despite the council's clear, consistent and robust responses. For clarity this is a process that have been successful elsewhere in the district, you only have to look at the café in Goodland Gardens to see how private investment can enhance a public space.*
- *We are aware that a successful bidder made a planning application that was contrary to their bid submission. The application was not supported by the Assets team who act as landlord. Members will be aware that anyone can make a planning application on any land with the planning authority being required to consider the application on its merits. From our role as a landlord we are clear that should the application have been approved we would not allow this work to be delivered as we remain the landowners and our consent would have been required.*
- *There have been various suggestive statements made about the Executive Member involved in the tender process. This is not the way to raise concerns over the behaviour of a councillor. If the public speaker wished to raise a concern or make a complaint there is a process to do so which we would be happy to provide to you*
- *This scheme has not been without its problems, works were paused while an acceptable solution was being sought to create a refurbishment which would comply with the Minimum Energy Efficiency Standards.*
- *We have received an acceptable certificate which means they can continue with works.*

Considerable officer time and resources have gone into responding to these matters and I hope this to be the last contact we receive, however those involved in the complaints have the right to contact the local government ombudsman if they remain unhappy and we are ready to defend our position and share all information with the LGO."

In light of the above position, Cllr Lisgo advised Mr Martin to pursue his complaint independently via the Ombudsman. This was not a matter that could be dealt with via Community Scrutiny even though the committee had sympathy with the concerns. She accepted that this was a matter of great frustration for all parties, and SWT would be doing its utmost to ensure that the situation with the café was brought to a successful conclusion. Minehead Town Council had recently written

to SWT and asked that a mutually agreeable solution could be found to benefit the residents of Minehead.

Cllr Lisgo thanked Mr Martin for attending and speaking with such passion. On behalf of the Committee she wished him a safe journey home.

57. **Community Scrutiny Request/Recommendation Trackers**

There were no new items on the recommendation tracker to report. The Written Answer Tracker had been updated.

Members approved the trackers – *Prop: Johnson / Sec: Habgood (Unanimous)*

58. **Community Scrutiny Forward Plan**

The Chair advised that due to the Minutes of all Council meetings having to be signed off at the last Full Council meeting on 28 March 2023, there would be no Community Scrutiny Meeting in March. It was likely therefore that there would be a lot of items brought forward for the two remaining meetings in January and February.

Cllr Dawn Johnson requested that a report was brought to Community Scrutiny to update the Committee on the Canonsgrove Decant/ Rough Sleeping programme, and how this was progressing. Also to include any remedial works/costs that were required to restore the accommodation that had been vacated, and to talk about the future and next steps. It was agreed to add this to the February meeting.

The Committee approved the Community Scrutiny Forward Plan

Prop: Lloyd / Sec: Stock Williams (unanimous)

59. **Executive and Full Council Forward Plans**

The Executive and Full Council Forward Plans were both approved.

Prop: Coles / Sec: Whetlor (unanimous)

60. **Housing Revenue Report - Financial Monitoring as at Quarter 2 (30 September 2022)**

The report was introduced by PFH for Housing, Executive Cllr Francesca Smith.

The report author Kerry Prisco made the following comments in support of her written submission.

During the Qtr 1 report it was requested that where savings were identified, these were referenced in Qtr 2. These are indicated as follows:-

- Para. 5.10 on capitalising material costs c£250k, e.g., identifying jobs that were initially considered revenue in nature but once works were completed ended up being capital related expenditure;
- Para. 5.11 on capitalisation staff costs £254k, e.g., if hypothetically the capital programme did not exist then this team would not be required.
- Para. 5.14 on central recharges £320k, e.g., a full and detailed review of shared costs has been undertaken this year resulting in a reduction in cost to the HRA;
- Para. 5.17 on capital charges / net interest payable re reduction in capital spend, e.g. if we spend less on the capital programme then less of our capital financing reserves are used and thus earn interest instead; and
- Para. 5.18 on depreciation charges vs VRP. E.g., the increase in depreciation charges is a combination of where external audit advised us last year to reduce our useful life from 100 to 70 years plus the increase in house prices inflating the value of our assets. We have proposed to offset this pressure in part against the voluntary repayment of debt (funding this from a different pot of money i.e. existing capital receipts) though this still leaves a pressure of c£400k.

The Finance team appreciate that these are mainly technical financial adjustments or updated forecasts, but the ability to make any immediate savings on essential services is incredibly difficult. The service is working on some operational improvements such as progress towards a new material supply contract to deliver efficiency savings and an updated review of service charges to maximise income.

Comments from the committee as follows:-

- The Chair congratulated the finance team on finding ways to reduce the pressure on the HRA and working hard to reduce the projected overspend.
- The benefit of capitalising salaries means that the HRA can be given a breather during this period of heavy financial pressures. This has arisen due to the inflationary expenditure being experienced due to the Cost-of-Living crisis and the war in Ukraine. Income is not able to meet the expenditure within the ring-fenced HRA. This moves the money around, but may not be a permanent fix.
- Cllr Lloyd asked what would happen if an overspend remained at the end of the financial year? The deficit would be made up from the General Reserves which are in a healthy position. The SWT HRA would be combined with Homes Sedgemoor to become a new single HRA within the new council. The new combined business would have an operating turnover of approximately 47million and would hopefully have greater capacity and resilience.
- Why have staff costs exceeded the budget? This was partly due to the estimated pay-rise which was set at 2%. The actual figure came in higher which impacted on the budget forecast.
- It was questioned whether the Cost-of-Living crisis was already impacting on tenants ability to pay their rent, and whether rent arrears had increased. Simon Lewis reported that this was an area where SWT was in the top

quartile of Council's and had a good record on rent recovery. There are two dedicated financial support officers who work with tenants to help with income generation and rent collection. A lot of communications go out via SMS and social media reminding and encouraging tenants to pay their rent over the Christmas period.

61. **Executive Portfolio Holder Session - Cllr Francesca Smith**

The Chair welcomed the Executive Councillor for Housing to Community Scrutiny Committee to answer updates on her portfolio. It was acknowledged that the meeting had fallen between two full council meetings and therefore there were two portfolio updates that had been published.

Members asked questions on the following issues:-

- There are now specific teams in place who deal with damp and mould in council housing. There is also a tenant group working specifically on this project. It is very important that concerns are reported as in most cases it gets worse due to being a hidden problem! Simon Lewis accepted that there will always be issues as 20% of the housing stock is of a traditional build and this is an inherent problem in older type housing. It has also been acknowledged that the current financial crisis will encourage tenants to use alternative forms of heating over the winter, which may lead to increased condensation and other associated problems.
- Members can help with this by promoting how to report mould and damp and general housing repairs. This can all be done online via the housing repairs portal. More information can be found on the council's website. This is also due to be updated with operating instructions on the different heating types within the SWT housing stock. This should help tenants to get the best use out of their heating systems.
- It was asked whether there was still a delay on the delivery of the Disabled Facility Grants which were delivered via Somerset Independence Plus (SIP). Simon Lewis explained that a backlog had arisen due to pressures on the service due to: SIP were the nominated organisation who were responsible for inspecting the suitability of sponsor, Homes for Ukraine properties. (This was obviously emergency work and took priority). Secondly, South Somerset had joined the partnership, which meant that any high-risk properties that were brought in from their housing stock, took priority over existing cases. Add to this the problems associated with gaining access to properties due to COVID-19, and then there was an inevitable backlog. The SIP team were now slowly catching up.
- Financial support for hosts of Homes for Ukrainians has caused significant pressure on the private sector rented housing market. Sponsorship comes to an end after 12 months by which time, the hosted families need to find their own independent accommodation. This places additional challenges on an already limited supply of rented accommodation.

- Cllr Habgood thanked Simon Lewis and his team for the work with Homes for Ukraine and asked how many families are being assisted? (Somerset is accommodating approximately 1200, with 400 being situated in the SWT area). Hubs have been set up across Somerset to provide support and assistance with such things as language classes and finding employment. Numbers are manageable at the moment, but sponsorship money will eventually come to an end. This was priced at £1K per room to cover costs and a slight uplift has been added for take into account the cost-of-living crisis and additional expense incurred during the winter. This will place sponsors under additional financial pressure as this money comes to an end. (The £1k per room was calculated to ensure an incentive to sponsors who were effectively renting to a high risk/unknown tenant and encourage participation).
- Cllr Mansell asked if the items collected during the SWT Skip days were recycled. Simon Lewis stated that this had been tried in the past but was unsuccessful due to the need to separate the waste. Tenants don't tend to split into the necessary recyclables, so it ends up being mixed which is not eligible for collection. If items can be recycled as part of the kerbside collections then households were encouraged to do this.
- The Council do encourage tenants to install smart meters so they can monitor their energy usage. The Centre for Sustainable Energy (CSE) has also been reporting back on private sector tenancies.
- The retrofit programme has gone out to tender. The Woolaway project has also been re-tendered due to the high level of risk within the contract and due to escalating costs for supplies. Two tenders have now been combined into one in the hope it will encourage contractors to apply.
- Cllr Habgood asked how tenants who were unable to manage their large gardens could be helped to maintain them? It was advised that Link Power were already undertaking such jobs in parts of Taunton, and they had also requested more work. Simon Lewis would follow this up.
- It was asked if the Cost-of-Living Crisis was influencing Right To Buy take up. James Barrah confirmed that 35 homes were sold in the last financial year, but this had slowed considerably due to the Cost of Living having an impact on incomes. The prediction is for 55 to be sold right across Somerset next year.

62. **Access to Information - Exclusion of the Press and Public**

The Committee voted to move into confidential session for the final item.

Prop: Lloyd / Sec: Whetlor (Unanimous)

63. **Confidential Item - Cultural Grant Provision**

(The Meeting ended at 9.01 pm)

