

**STATEMENT, QUESTIONS AND INVITATION TO COMMENT FROM THE
PEWSEY COMMUNITY AREA PARTNERSHIP (PCAP), PEWSEY PARISH
COUNCIL (PPC) AND THE CAMPAIGN TO PROTECT RURAL ENGLAND
(CPRE) referred to as THE GROUP**

to

**THE OVERVIEW & SCRUTINY MANAGEMENT COMMITTEE (OSMC)
MEETING on 3RD DEC 2019**

**RE: THE PUBLIC CONSULTATIONS TASK GROUP (PCGT) FINAL REPORT
(THE REPORT)**

The Group notes the Responses to the Statement and Request that was put to the Cabinet Meeting on 19th November 2019 and which formed part of the Agenda at Item 5, and the Responses sent on 26th November 2019 to four further points raised by Mr Colin Gale (PCAP) on behalf of the Group, as Supplementary Questions during the Cabinet Meeting itself.

It is with regret that the Group are unable to accept that either set of Responses is satisfactory, as it seems that the Council has largely failed to adequately address most of the issues involved. The Group was pleased, however, to receive Appendix 1 to the PCTG Report.

In the meantime, given that Cabinet, on 19th November, effectively delegated further consideration of the PCTG Report to the OSMC, and that this Committee is meeting to discuss the same on 3rd December, there are a number of observations that the Group would like to bring to the attention of that meeting.

In respect of Agenda Item 5 for the Cabinet meeting on 19th November:

01. The Response to Question 1 advises that the PCTG has worked through their Terms of Reference (ToR), but this is not evident from the Report. The Response claims that this is evident from the Conclusions and Recommendations, but it is not possible to map the Conclusions and the Recommendations to the main body of the Report. An example is ToR 1a), which requires the PCGT to look at the level of response to Council consultations, but this has not been satisfied. How are the public expected to gain confidence in how the PCTG has addressed its ToR, when its Final Report is incomplete?

02. The Response to Question 2 perfectly legitimately states that the Task Group members drew on their own experience, but the Response implies, in terms that could be considered derogatory and even arrogant, that the public had nothing to offer. The Group considers this is yet a further example of the Council's disengagement with its public.

03. The Response to Question 2 also refers to "evidence being taken from experienced officers versed in both the legal and practical requirements of effective consultation". This Response seems incompatible with Para 12 of the Report (the lack of replacement of the officer previously responsible), Para 13 (the challenges faced, pending the establishment of the Business Hub), Para 14 (the disturbing confusion as to the distinction between

consultations and engagement exercises) and Para 12 (the risk of legal challenge) which are but some of the indicators that the Council's consultation management is simply not up to standard at the present time, one of the major problems seemingly being the lack of experienced staff. The OSMC are invited to comment on just how much expertise was actually available to the PCTG, having conceded that the members thereof are not to be considered as technical experts.

04. The Response to Question 3 is disappointing, in that the Group's Memorandum of 10th February to the Chairman of the PCTG was not originally circulated to the other members. It has now been passed to the OSMC for inclusion on the Agenda for the Meeting on 3rd December. However, it is not evident from the Agenda or the Agenda Pack that the Memorandum has been included.

05. The Response to Question 4 would seem to reveal some small inaccuracies in the light of the information provided in Appendix 1, which identifies 138 surveys, but it appears that only 136 are listed, after taking into account one "double counting" of one survey in Section A, while in Section J, although all entries are deemed to be surveys, the seventh item (waste and recycling) was clearly a consultation and indeed is marked as such. Otherwise, the Group's view is that the methodology used to distinguish between public consultations that need to be carried out under the Public Law Duty to Consult or for statutory reasons, and those exercises that should be regarded as surveys, canvassing or engagement exercises, may have been somewhat simplistic, inasmuch as almost total reliance has been placed on the entry title. This may have been appropriate in some cases, but there is no evidence that any entry has been examined in any depth or detail. Furthermore, some confusion has arisen as a result of the reference by the PCGT in Para 14 of the Report to '86% of all public consultations carried out by Wiltshire Council were examples of canvassing or engagement'. This gave rise to the impression that all the 86% cases referred to had been carried out as public consultations under the Law, with an attendant unnecessary waste of resources. Can the OSMC advise whether any of these cases were examined in any depth, and whether any were handled as public consultations under the Law, and if so, identify them?

06. The Response to Question 5 concerning the use of the words "public consultation" and the public's expectation thereof, appears to shelter behind a statement that the Task Group's final report "outlines an overview of the review and its findings". In other words, a tacit admission that this very relevant issue was not treated with any of the depth that the subject warranted, the Group coming to this conclusion for the same reasons as it identified in its original Review. It is not clear that the public's expectations have been either fully considered or addressed.

07. The Response to Question 6 does not demonstrate that the full information behind the question has been considered. When the Response identifies that the 'Executive will now determine how to respond to the issues raised in the Task Group's report' it is believed that this simply means consideration being given to the Recommendations. It is not believed that the Executive is actually looking at the totality of the issues raised in the Report, to see if the Report is complete.

08. The Response to Question 7 is a very superficial statement, with no supporting evidence, other than a list of three documents and no other comment. It is apparent from the Recommendations in the Report that two of the documents require updating and are therefore clearly not sound.

09. The Response to Question 8, with regard to the implications of the term “beneficial” is a fair one, in terms of expressing a principle that is for the benefit of both the public and the Council. It is also in line with the opinion expressed in the Group’s Review that there should be a partnership between the public and the Council over public consultations. Past experience, however, shows that principle and practice are not necessarily the same. The Group has provided ample evidence thereof to the Council over the last three years, Everleigh being the case in point. But the Group is not alone, and at this juncture, believes it appropriate to quote Wiltshire Cllr John Walsh, as reported in the Gazette & Herald on 26th September 2019, shortly after the PCTG Report was released, when he was quoted as saying “Filling out consultations, I have been left with this feeling Wiltshire Council was trying to fix it so the public were not properly involved”.

Para 20 of the PCTG Report stated that the aim is to design consultations that would be beneficial to the Council. This statement is incompatible with providing a mutually beneficial result for the public and the Council. Despite the subsequent Response, the Group requests that the OSMC reconsiders this statement and formally amends it, given that it is in a public document, and would like to remind the OSMC of the danger to public confidence of not providing properly neutral questions.

10. The Response to Question 9 seems to brush Cabinet Forward Plans aside as just something the Council has to do to satisfy the regulations, and has not considered the Cabinet Forward Plans as part of the overall consultation process. The Group notes that the Council is endeavouring to provide better identification in the ‘Consultation’ column of Cabinet Forward Plans as to whether an entry, where appropriate, is a public consultation required by Law or by Statute, or simply a survey or canvassing exercise, but a certain lack of clarity remains. It might be helpful to specifically identify those consultations that warrant it as “Public consultation required by Law”. It is noted that the column headed “ Supporting Documents” generally remains blank. For example, the Cabinet Forward Plan December 2019 – March 2020 published on 11th November contained 12 items, but supporting documentation was provided in only one instance. There may be reasons for this, but there were a number of Key decisions in the Forward Plan and the Group considers it is appropriate to remind the Council of its obligation to provide documentation that is relied upon by Cabinet in taking a Key decision. By not looking into the detail of Forward Plans, if only broadly, it could be argued that the PCGT missed an opportunity to improve the public consultation process.

11. The Response to Question 10 is a repeat statement of the list of documents considered in the Report, again with no supporting evidence. The issue of “When to Consult” remains, two examples are to be found as recently as the Cabinet Forward Plan for October 2019 published on 11th September 2018. The first relates to the Community Funding Review, which has a meaningless “Tbc” in the consultation column of the Forward Plan, this matter being dealt with at Agenda Item 9 for the Cabinet Meeting on 8th October. Despite this matter being listed as a Key decision, the Minutes make no reference to any form of consultation taking place. The second relates to the Council’s £ 75M bid to the Housing Infrastructure Fund in respect of Chippenham, another Key decision, where quite an extensive list of consultees is shown in the Cabinet’s Forward Plan., but the Group submits that the Council’s apparent failure to consult with any of the local parish councils that would be affected by such a major project before the bid was put in, and before statutory public consultation on the roll forward of the Local Plan, may well lead to future repercussions. It is conceded that the

Minutes reflect that the Leader of the Council confirmed that consultation with parishes would take place in the future, but with the Council recording that this will be a major project over the long term, it appears to the Group that, with agreement to the funding having already been forthcoming, there is considerable risk that a significant number of rural residents, many potentially seriously affected, will simply be presented with a 'done deal' and that it will be very hard for them to get their views taken into account.

12. Summary

From the Group's comments above, it is unable to gain any confidence that the Council has addressed adequately the public's concerns over how Council public consultations are conducted, and how the public's views are taken into account when making Key decisions – the latter being the invariable result of such consultations, and trusts that the Executive will provide a full response to all the questions and issues raised in this Statement.

The Group has had time to look only briefly at the Executive's responses to the PCTG Report's Recommendations, as approved by the OSMC, but has noted that the Executive has not attached time lines to any of those responses. The Executive's responses do not appear to have captured fully all of the individual Recommendations, and with regard to time lines, Recommendation 9 has been omitted from those responses. For the avoidance of doubt, the Group wishes to retain the right to provide further comment in due course on the Executive's responses, should it consider it necessary to do so.

The Group is concerned that the PCTG is being shut down, without formally addressing any of the material submitted by the Group, and as a consequence, any input from the public has been excluded, whether from the Group, or indeed, anybody else. The unfortunate, but clear impression has been given that the Council had no interest in any form of engagement with the public as to how consultations might be improved, and an opportunity that might have indicated some willingness on the part of the Council to start re-building some public confidence in the consultation process, has been lost.

Colin Gale
Vice Chairman
PCAP