

# AGENDA

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**Meeting:** CABINET CAPITAL ASSETS COMMITTEE  
**Place:** Committee Room V - County Hall, Trowbridge  
**Date:** Monday 10 January 2011  
**Time:** 12.00 pm

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Please direct any enquiries on this Agenda to Chris Marsh, of Democratic and Members' Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713058 or email [chris.marsh@wiltshire.gov.uk](mailto:chris.marsh@wiltshire.gov.uk)

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**Membership:**

Cllr John Noeken  
Cllr Fleur de Rhe-Philippe  
Cllr Jane Scott OBE (Chair)

Cllr Toby Sturgis  
Cllr John Thomson

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# AGENDA

## Part I

### Items to be considered when the meeting is open to the public.

1. **Chairmanship**

In accordance with Paragraph 20 of Part 7 of the Wiltshire Council Constitution, 'Cabinet Procedure Rules', the Leader will preside at any meeting of the Cabinet or its committees at which she is present, or may appoint another person to do so.

2. **Apologies**

To receive any apologies for absence.

3. **Minutes of the Previous Meeting**

There are no previous minutes for this Cabinet Committee.

4. **Chairman's Announcements**

5. **Declarations of Interest**

To receive any declarations of personal or prejudicial interests or dispensations granted by the Standards Committee.

6. **Revisions to Capital Programme** *(Pages 1-8)*

To consider the recommendations of the attached report of the Interim Head of Financial Planning, regarding the re-profiling of the Council's Capital Programme.

7. **Transformation of Waste and Recycling Collection Services** *(Pages 9-14)*

To consider the recommendations of the attached report of the Service Director, Waste Management Services, regarding capital investment in the Transformation of Waste and Recycling Collection.

8. **Community Asset Transfer Policy** *(Pages 15-18)*

To consider the recommendations of the attached report of the Head of Strategic Property Services, proposing a review of existing Community Asset Transfer policy.

9. **Scrutiny of Section 106 Agreements** *(Pages 19-24)*

To consider the recommendations of the attached report of the Service Director for Legal and Democratic Services, regarding management of Section 106 funding.

10. **Urgent items**

Any other items of business that the Chair agrees to consider as a matter of urgency.

**Part II**

**Items during whose consideration it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed.**

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## WILTSHIRE COUNCIL

### CABINET CAPITAL ASSETS COMMITTEE

10 January 2011

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**Subject:** Proposed Revisions to Capital Programme

**Cabinet member:** Councillor Fleur de Rhe-Philippe, Finance,  
Performance and Risk

**Key Decision:** No

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#### Executive Summary

The report provides details on proposals to revise the capital programme following a review by officers. The review looks at deferring capital expenditure, as opposed to any cuts, with a view to deferring revenue costs.

#### Proposals

- a. For the proposals set out at paragraphs 9 to 23 to be accepted and the capital programme amended accordingly.
- b. For the capital programme 2011 to 2012/13, after the review, to remain unchanged and for no further new bids to be accepted to the capital programme except for the following:
  - i. New proposals brought forward for leisure and waste and approved as part of the council's budget setting process.
  - ii. Further reports on Highways and Education future spending proposals with a view to amending the approved programme.
  - iii. Any new schemes which clearly demonstrate revenue savings and have been brought to the Committee and approved.

#### Reason for Proposal

To allow for the deferral of revenue spend that will be reflected in the business plan, and to allow flexibility in the setting, funding and approval of new schemes in the future.

#### Michael Hudson

Interim Chief Finance Officer

# WILTSHIRE COUNCIL

## CABINET CAPITAL ASSETS COMMITTEE

10 January 2011

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**Subject:** Proposed Revisions to Capital Programme

**Cabinet Member:** Councillor Fleur de Rhe-Philippe  
Finance, Performance and Risk

**Key Decision:** No

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### Purpose of Report

1. To update the Committee on the review of the Capital Programme and put forward proposals around revisions and future additions / approvals.

### Background

2. The Review has been conducted with the primary objective to defer capital expenditure, in the main funded by borrowing, so that a deferral in revenue cost of financing capital spend is also achieved. It is worth noting that this is a deferral of spend rather than a cessation.

### Current Position – October 2010

	2010/11 £m	2011/12 £m	2012/13 £m	Total £m
Planned Capital Spend*	160	90	55	305
Planning Borrowing	81	48	20	149
Slippage (of which £30 million borrowing)	41	-	-	41

	2010/11 £m	2011/12 £m	2012/13 £m	Total £m
Effect of slippage				
Revised Capital Spend*	119	131	55	305
Revised Borrowing	51	78	20	149

\* Does not include new leisure and waste proposals

3. The full year effect of slipping £30 million of capital schemes funded by borrowing will defer £1.3 million of revenue in the current financial year, based on repaying debt at a council average of 4.35%.
4. In reality for 2010/2011 we are yet to borrow. The council is planning to borrow £20 million in the remainder of this financial year to ensure it effectively manages its current and future cash and debt position.

5. Although £51 million is now planned, further slippage, actual cashflow and investments held have allowed no borrowing to be undertaken.
6. The capital programme, based on the above revised projection, has been budgeted for in full in the revenue business plan.

### **Proposals for Review**

7. As previously mentioned the review is focused on looking at the deferral of schemes to enable revenue savings. However the Committee can decide to go deeper and further e.g. stopping of schemes, should it wish to. Only one proposal has led to a reduction in funds and the majority is around the potential to streamline schemes.
8. In all cases where there is deferral the scheme is still approved in the programme therefore schemes can be brought forward if required.

### **Workplace Transformation Programme (WTP)**

9. In discussion with the Programme Director the scheme can be re-profiled so that the forecast £19 million slippage will not be required in full in 2011/12.
10. The reason for this re-profile is that the tender for works can be revised so that payments to the successful contractor can be aligned equally in instalments over the project life as opposed to making lump sum payments up front.
11. This now means the programme (office/hub) can be conducted by phasing £25 million in 2011/12 and £15 million plus the original budgeted £8 million in 2012/13. The balance of slippage, £4 million, is in relation to operational hubs and will still be required in 2011/12.
12. This re-profiling will result in £15 million not being borrowed in 2011/12 and will defer £0.6 million of revenue costs.

### **Other Property**

12. Schemes involving property that are already, or in the future will fall, under the scope of the Workplace Transformation Programme should either be subsumed under that heading or the scheme reviewed and where necessary revised.

13. The table below lists the schemes that are affected. The programme should be reflected so that the schemes are moved to WTP.

<b>Nos</b>	<b>Scheme</b>	<b>Budget 10/11 £m</b>	<b>Slippage £m</b>	<b>Proposal</b>
32	DDA Works	0.198	-	Transfer to WTP
33	Highway Depot and office strategy	3.000	-	Transfer to WTP
54	Libraries, Heritage & Arts	1.188	0.444	Transfer to WTP and review
<b>Totals</b>		<b>4.386m</b>	<b>0.444m</b>	

### **Highways**

14. Consequently, highways schemes should be deferred until exact funding detail for 2011/12 onwards is confirmed. Department for Transport have recently announced that highway capital spend will now be grant funded, as opposed to supported borrowing.
15. This provides the council the opportunity to replace schemes currently funded by supported borrowing with grant funding which would realise significant revenue savings as opposed to deferral.
16. Once the precise level and conditions of funding are known in detail a decision will be required as to what level of budget should be allocated for Highways in future; this has been covered in the future proposals.

### **Education Schemes**

17. The original proposal put forward following the review had proposed that the full £5 million of identified slippage should be put into 2011/12 with subsequent years deferred by one year i.e. £4 million moved into 2012/13 and £4 million into 2013/14.
18. However, as with Highways, there has been a recent announcement with regards to future funding for schools and education capital. Therefore once the full detail is ascertained a decision will be required as to what level of budget should be allocated in future.

### **ICT Schemes**

19. Following successful tender the new Revenues and Benefits project is now only anticipated to cost circa £1 million, against an original pre-tender budget of £1.5 million. However the new planning system budget of £0.700 million is anticipated to be inadequate



20. It is proposed to vire £0.300 million from the Revenues & Benefits project to the Planning system project, and return £0.200 million to the general capital pot.

### **Disabled Facilities Grant**

21. The annual budget for Disabled Facilities Grant has been set in the approved programme at around the level of £3 million; however the historic annual spend on Disabled Facilities Grant is circa £2.5 million per annum.
22. The review proposes to forecast £0.535 million slippage in 2010/11, then top slice the next two years which will maintain funding at £2.5 million per annum and put the balance of funds of £1.555 million in 2013/14.
23. This would defer approximately £0.945 million capital spend deferring revenue cost of circa £0.041million.

### **Summary of Proposals**

22. Although the review has been altered slightly in relation to the recent announcements on funding for education and highways projects, the review still delivers deferral of capital and revenue spend into later years.
23. The table below summarises the proposals following the review and the total revenue deferred.

<b>Scheme</b>	<b>Deferred into 2011/12 £m</b>	<b>Revenue Deferred £m</b>
WTP	15.000	0.653
ICT Systems*	0.200	0.009
Disabled Facilities Grant	0.945	0.041
<b>Total</b>	<b>16.145</b>	<b>0.703</b>

\* Amount returned back to 'pot' not deferred.

24. In addition to the £0.703 million of revenue costs deferred, which is purely in relation to interest repayments, a further £0.022 million in 2011/12 will be generated through reductions in MRP (Minimum Revenue Provision).
25. This gives a total revenue deferral of £0.725 million from 2011/12 into 2012/13.

26. The impact of the proposals outlined would change the revised position as shown earlier in the report to be as follows:

	<b>2010/11 £m</b>	<b>2011/12 £m</b>	<b>2012/13 £m</b>	<b>2013/14 £m</b>	<b>Totals £m</b>
Revised spend	119	115	69	2	305
Revised borrowing	51	62	34	2	149

### **Future Additions and Approvals to the Programme**

27. This review only considers the current approved programme 2010/2011 to 2012/2013. Consideration needs to be given to schemes for 2013/14 onwards and any new additions to the programme.
28. The proposal in this report is for the Committee to agree that no new schemes, apart from the new proposals outlined to Cabinet for Waste and Leisure and for any scheme that clearly demonstrates an on going revenue saving, to be added to the programme over and above the existing approved schemes. For clarification no Adult Care Accommodation costs are expected and are therefore excluded from the figures.
29. This will allow flexibility for the Committee to assess bids in the future from a clearer funding base without being time bound to setting a full three programme in February 2011.
30. For Highways and Education schemes, further reports should be requested to this committee to detail the future spending plans once the full funding scope has been analysed and is fully understood.

### **Main Consideration for the Council**

31. To note the impact of the proposals on the capital programme.

### **Environmental Impact of the Proposal**

32. No environmental impacts have been identified from this report.

### **Equality and Diversity Impact of this Proposal**

33. No equality and diversity issues have been identified or arising from this report.

### **Legal Implications**

34. None have been identified as arising directly from this report.

## **Risk Assessment**

35. The risks of deferring the capital expenditure have been assessed by officers in the review. These have been taken into consideration and only the low risk proposals have been taken forward.
36. The risks have been further mitigated by the deferral as opposed to removal of schemes, thus as they remain approved in the programme should the need arise to carry out the scheme it can be brought forward.

## **Financial Implications**

37. These have been examined and are implicit throughout the report.

## **Proposals**

38. For the review proposals to be accepted and the capital programme amended as follows:
  - i. Re-profiling of the schemes reviewed, as outlined in the report.
  - ii. Virements of schemes to WTP, as outlined in the report.
  - iii. Virements and reduction of budget for ICT schemes, as outlined in the report.
39. For the capital programme 2011/12 to 2012/13, after the review, to remain unchanged and for no further new bids to be accepted to the capital programme except for the following:
  - i. New proposals brought forward for leisure and waste and approved as part of the council's budget setting process.
  - ii. Further reports on Highways and Education to be brought to the Committee to outline future spending proposals with a view to amending the approved programme.
  - iii. Any new schemes which clearly demonstrate revenue savings and have been brought to the Committee and approved.



**Wiltshire Council**

**Cabinet Capital Assets Committee  
10 January 2011**

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**Subject:** Transformation of Waste and Recycling Collection Services

**Cabinet Member:** Toby Sturgis  
Waste, Property and Environment

**Key Decision:** Yes

## **Executive Summary**

The report sets out a proposal for implementation of the transformation of waste and recycling collection services during 2011-12.

## **Proposal**

That the Committee agrees to include the proposed capital investment of implementing the new services for waste and recycling collection during 2011-12 in the council's future capital programme, to be approved through the budget setting process.

## **Reason for Proposal**

To enable the decisions made by Cabinet at its meeting on 19<sup>th</sup> October 2010 in respect of waste and recycling collection services to be implemented, following a positive response to public consultation.

**Tracy Carter**  
Service Director  
Waste Management Services

## Wiltshire Council

### Cabinet Capital Assets Committee

10 January 2011

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**Subject:** Transformation of Waste and Recycling Collection Services

**Cabinet Member:** Toby Sturgis  
Waste, Property and Environment

**Key Decision:** Yes

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#### Purpose of Report

1. To recommend that the Committee includes the following in the proposed capital programme for the implementation of new recycling services during 2011-12.

	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>4 year total</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
Capital costs	7.761	0.528	0.138	0.138	8.566

#### Background

2. At a meeting on 19<sup>th</sup> October 2010 it was resolved that Cabinet
  - (a) notes the results of the public consultation "Waste Collection and Recycling – Proposing a first class service for all households in Wiltshire" carried out during June, July and August 2010, and agrees to the implementation of that proposal;
  - (b) notes that implementation of the proposal requires management of a number of significant risks, in particular the procurement and development of waste management sites, the availability of depot space for additional vehicles and temporary storage facilities for additional bins and the procurement of vehicles, bins and bags which will determine the timescale for implementation;
  - (c) gives delegated authority to the Corporate Director, Neighbourhood and Planning in consultation with the Cabinet Member for Waste, Property and Environment to implement the policy;

Agrees to:

- (a) the proposed area by area phasing of new services, to minimise disruption and to control the very substantial logistical issues, such as bin delivery and staff availability to assist residents during the change;

- (b) a phased communication and education programme prior to, during and subsequent to the roll out of service changes, commencing at least six months prior to roll-out;
  - (c) the key decisions on service delivery and policy, as set out at paragraphs 25 to 44 and in Appendix 7 of the report presented;
  - (d) policies for non-collection of overfull bins or side waste being implemented after a “settling down” period of six months for the new services;
  - (e) enforcement action by the Council being limited to repeated failure to use receptacles provided for recycling or creation of side waste and warnings being issued before any formal enforcement action is taken;
  - (f) residents being invited to apply for the garden waste collection, but that this would be provided on request only except in west Wiltshire, where the service already existed;
  - (g) charging for provision of additional garden waste bins and their collection (ie more than one bin per household) at £30 per additional bin per year (2011-12) with prices subject to annual review and
  - (h) budget provision being made for the capital and revenue costs of the service changes, as set out in paragraphs 71-73 and Appendix 2 of the report presented, commencing in 2011-12, with timing subject to the emerging dates for implementation.
3. Following the announcement of the comprehensive spending review on 20<sup>th</sup> October 2010 it was proposed that implementation of the new services be deferred until 2012-13. Further work has been carried out on the Council’s business plan since the publication of the detailed settlement on 13<sup>th</sup> December which has now resulted in a revised proposal for implementation of the new services during 2011-12.

### **Main Considerations for the Council**

4. Agreeing the recommendation would enable the Council to implement the decisions made by Cabinet on 19<sup>th</sup> October, following the positive response to the public consultation on harmonising waste and recycling collection services.

### **Environmental and Climate Change Considerations**

5. Recycling will increase as a consequence of implementing the proposal assisting a reduction in resources required to make new products. Within Wiltshire the increase in Council collection mileage of about 20% is likely to be offset by a reduction in car journeys to recycling sites by residents. Further details of the environmental impact of the proposal are set out in paragraphs 56 to 62 of the report to Cabinet on 19<sup>th</sup> October 2010.

## Equalities Impact of the Proposal

6. The equalities impact of the proposal is likely to be positive, giving more residents the opportunity to recycle. Further details of the equalities impact of the proposal are set out in paragraphs 63 to 67 of the report to Cabinet on 19<sup>th</sup> October 2010.

## Risk Assessment

7. The transformation of waste and recycling collection services has been identified on the Council's corporate risk register. Further details of the risk assessments associated with the proposal are set out in paragraphs 68 to 70 and in some of the appendices to the report to Cabinet on 19<sup>th</sup> October 2010.

## Financial Implications

8. The increase in revenue compared to the 2010-11 budget and the revenue cost of borrowing to fund the capital investment are set out in the table below.

	<b>2011-12 £m</b>	<b>2012-13 £m</b>	<b>2013-14 £m</b>	<b>2014-15 £m</b>	<b>4 year total £m</b>
Increase from 2010-11 revenue budget	1.534	4.119	3.833	3.734	13.220
Revenue costs of capital	0.334	0.512	0.528	0.537	1.910
Total revenue increase	1.868	4.631	4.361	4.271	15.130

## Legal Implications

9. Legal issues associated with the proposal are set out in paragraphs 74 to 78 of the report to Cabinet on 19<sup>th</sup> October 2010.

## Options Considered

10. A number of options have been considered:
- (i) no additional expenditure incurred in 2011-12;
  - (ii) all additional expenditure incurred in 2011-12;
  - (iii) other options including the proposal requiring some additional expenditure in 2011-12 and some in 2012-13.



## Conclusions

11. The proposal for changes in waste and recycling collection services would enable the Council to meet its key objectives of providing a harmonised service to residents in all areas and encouraging a significant improvement in recycling.
12. The proposal has been widely supported by Wiltshire residents, with over 70% of respondents to the consultation voting in favour. However, any change to the waste collection service causes disruption and some adverse reaction from the public. This will be addressed through the detailed design of the service and through an extensive and planned communications programme.
13. A risk-based approach to the project implementation work is being taken in recognition of the very considerable risks associated with implementation of the service changes. The main risks are the financing of service changes, acquisition and development of required sites, acquisition and delivery of vehicles and receptacles and acceptance of the new collection services by all residents. These will have a particular influence on the timescale of implementation.
14. The initial cost assessments of the proposal provide a basis for the Council's medium term financial strategy, business plan and proposed increases to the waste capital and revenue budgets. However, these will need to be kept under review as the proposals are developed in detail.

## **MARK BODEN CORPORATE DIRECTOR**

Report Author  
**Tracy Carter**  
Service Director  
Waste Management Services  
01225 713258

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### **The following unpublished documents have been relied on in the preparation of this Report:**

None

### **Appendices:**

None

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## WILTSHIRE COUNCIL

### CABINET (CAPITAL ASSETS) COMMITTEE 10 JANUARY 2011

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**Subject:** Transfer of Community Assets

**Cabinet member:** Councillor Toby Sturgis – Property, Waste and Climate Change

**Key Decision:** No

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#### **Purpose of Report**

1. To propose that a review of the existing policy for the Transfer of Community Assets is undertaken, with a view to proposing a revised policy that increases the clarity and consistency of its application.

#### **Background**

2. The Community Asset Transfer Policy was approved by Cabinet on 15<sup>th</sup> December 2009. It set out a framework whereby all properties declared surplus by the Council would be subject to consultation with Area Board members. There were three main strands:
  - Area Board Members should be pro-active in identifying priority community projects to ascertain whether the Council can assist delivery of that project through asset transfer;
  - There should be some tangible benefit to the community with the transfer being a specific catalyst to achieve a specific objective.
  - To make the process quick and easy, through the use of short-form templates and applying standard transfer documents as far as possible.
3. Cabinet resolved on 14<sup>th</sup> September 2010 to apply a further clarification to the process, by proposing a distinction between strategic and non-strategic property sales recognising the need to streamline the process to reflect the volume of sales expected through the Workplace Transformation Programme and the Corporate Plan. A strategic property is defined as having a value in excess of £250k, or if it has been identified to fund a strategic corporate project. A similar approach is taken where the property is being sold or transferred to a third party to deliver a corporate policy or statutory function.
4. For Strategic Sales, Area Board members are informed of sales in their area. Disposal of non-strategic assets with a value below £250k are

referred to the Area Boards, provided they are supported by robust and appropriate business cases that benefit local communities.

5. Cabinet also resolved for the Workplace Transformation Programme Board to be the forum for operational approval of strategic sales and the monitoring of property disposals.

### **Main Considerations for the Council**

6. Since the adoption of the policy, and its further development in September, it is apparent that some issues are emerging with respect to the intent and the application of the policy. The proposed review is intended to cover items where key issues have been observed, but the process of the review will also seek to explore other issues that need to be addressed within the policy. The process of the review will therefore centre on these key issues.
7. The current definition of “strategic” assets under the policy is relatively clear. However, in the current climate, it is recommended that the largely value-based definition be reviewed to identify an approach that enables the designation of assets to more accurately reflect the Council’s strategic needs.
9. The purpose of consultation with Area Board members needs to be clearly communicated to ensure that it is clear where members are simply being informed of the sale of a strategic asset in their Community Area, and those where they have a genuine ability to influence a decision.
10. The strand of the policy that sought a considered view from the Area Board about the community needs in an area, has not delivered the benefits that were perhaps foreseen. Collation of these needs would enable a more strategic view to be taken by Property Services in respect of those that can be progressed as Community Asset Transfers and thus avoid many ad-hoc requests.
11. Service needs driven by most frontline services operating services from Council property are now being successfully captured, analysed and rationalised by the Workplace Transformation Programme. However, the following types of need are not readily captured by the programme, and hence have typically identified their service needs through the surplus property consultation process.
  - Residential (affordable, sheltered, extra care...)
  - Economy and Enterprise
  - Schools
12. In most circumstances disposal costs, including staff time, legal costs etc can be capitalised against a sale receipt. This is not the case for Community Asset Transfers, as there is no capital income against which these costs can be charged. Hence these transactions are a revenue and

resource demand on Property and Legal Services. This resource pressure affects the Council's ability to respond quickly to Transfer requests. Standard templates for key documents assist in speeding the process, but further streamlining of the process will be considered as part of the process.

14. Consultation with key officers will be undertaken as part of the review process, which will be conducted with reference to relevant areas of the Workplace Transformation Programme, and the Service Director, Economy and Enterprise.
15. Since the adoption of the original policy, the Localism Bill has been presented to Parliament. The implications of this bill needs to be reflected in the revised policy. The timing of this bill being developed and proceeding through the legislative system is likely to require an adequate review mechanism within the revised policy to ensure that it remains consistent with the final shape of the legislation.

### **Environmental and climate change considerations**

16. An assessment of the environmental and climate change considerations related to the policy will be provided within the process of the proposed review.

### **Equalities Impact of the Proposal**

17. An assessment of the equalities impact of the policy will be provided within the process of the proposed review.

### **Risk Assessment**

18. An assessment of the risks related to the policy will be provided within the process of the proposed review.

### **Financial Implications**

19. The financial impact of the policy will be considered through the process of the proposed review.

### **Legal Implications**

20. The legal implications of the policy will be considered through the process of the proposed review.

### **Conclusions**

21. There is a need to review the current Community Asset Transfer Policy, for the reasons identified in the foregoing report. The Committee are asked to approve a review of the policy, and receive a report and proposed policy at their meeting on 7<sup>th</sup> February 2011.

### **Proposal**

22. That Cabinet request the Director of Resources to carry out a review of the existing Community Asset Transfer Policy, and to report to a future Committee meeting with a proposed amended policy.

### **Reason for Proposal**

23. To ensure that the Community Asset Transfer policy continues to be relevant to the Council's objectives in line with the Council's Corporate Plan, Business Plan, and evolving work related to the Localism Bill.

**Dr Carlton Brand**  
**Director of Resources**

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Report Author:

Neil Ward  
Head of Strategic Property Services  
Tel. 01225 713298

Date of report:

21 December 2010

### **Background Papers**

The following unpublished documents have been relied on in the preparation of this report:

None

### **Appendices**

None

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**Wiltshire Council**

**Cabinet Capital Assets Committee**  
**10 January 2011**

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## **Scrutiny of Section 106 Agreements**

### **Executive summary**

To highlight the work of Overview & Scrutiny in supporting the Council's management of its Section 106 agreements and to request the Capital Assets Committee to agree the recommendation identified to mitigate the current risks linked to this area.

### **Proposal**

The Committee is asked to:

identify and implement an action plan that will lead to a completed corporate Section 106 database by May 2011.

### **Reason for proposal**

Failure to catalogue all Wiltshire S106 agreements on a single database may lead to the council being asked to return developer contributions and planning gain not being materialised.

**Author:** Ceri Williams

Contact details: 01225 713079

## **Purpose of the Report**

1. To highlight the work of Overview & Scrutiny in supporting the Council's management of its Section 106 agreements (S106's) and to request the Capital Assets Committee to agree the recommendation identified to mitigate the current risks linked to this area.

## **Background**

2. In March 2010 the Organisation & Resources Select Committee created a scrutiny Task Group to review the Section 106 Process; including how developer contributions were being used to provide infrastructure improvements for Wiltshire.

## **Main considerations for the committee**

3. As part of its work the Task Group learnt that from January 1<sup>st</sup> 2005 to October 2010 there were 820 Section 106 Agreements across Wiltshire; 14 of which have been classed as significant i.e. planning gain of approx £300k +. (The Director for Planning has confirmed that details of these 14 agreements will be provided to the Task Group by early December.)
4. The former district & county councils operated individual approaches to the management of S106's, with records held in different sections such as legal, planning and finance. Post unitary accessibility was difficult and made more challenging because many of the officers who had been responsible for the agreements and had knowledge of their content had left the work area.
5. In response the Development Service in January 2010 appointed a dedicated administrative officer to create a database of all existing and new S106's. This aimed to ensure knowledge of what developer contributions had, or needed to be made, where the money had been directed, what money had been spent and the trigger points for future contributions.
6. Over 3 meetings, building up to July 2010, members learnt that the initial priority for the S106 officer had been to document the agreements finalised since April 2009. This work had been successful but not without challenge. Cataloguing monies received/spent and locating funds had proven to be the hardest task. Development of the database was further complicated by the different policies from Wiltshire's former councils to when an agreement's timeline (to spend the money) started. This ranged from when the agreement was signed through to money being payable on completion of the development.
7. The Task Group in July 2010 agreed to not meet for 5 months to allow the S106 officer time to further develop the database.



8. When the Task Group met in November it was provided with the following data to illustrate how much progress had been made; the Cabinet Member also thanked the members for their positive contribution:

	On database	Triggers	Hyperlink	On Web
North	12%	12%		95%
East	1.5%	1.5%		1.5%
South	2.5%	2.5%		2.5%
West	11%	11%		11%
Education	On own database			
Highways	On own database			

9. Members were told at the meeting that in order to accelerate progress a request had been made by the Service Director for Development for an additional temporary resource (18 hours per week for 3 months at a cost of £1810) to complete the data entry task of the S106 agreements. The Task Group was extremely supportive of the proposal.
10. On 18<sup>th</sup> November the Task Group updated the Organisation and Resources Select 'parent' committee. During the subsequent debate concern was raised in relation to the two key risks of not having a single up-to-date corporate database:
- Infrastructure improvements not taking place
  - Developer contributions being returned because not used within designated time
11. The Committee was also concerned that employing one part time member of staff for 12 weeks would not be enough time to make a major impact, when considering the % progress made to date. They also felt that because of the financial significance of the agreements, and to mitigate the risks, the database should be completed by the May 2011, 12 months since scrutiny started its work (see appendix).
12. The Scrutiny members are conscious of the difficult current budget situation. However, members would support the proposal to identify resources to have a fully functioning single database because it could be seen as 'invest to save project'. For example there is the potential that infrastructure contributions have not been sought from developers, as the contents of the agreements are not accessible currently and trigger points have been missed.

## **Equality and diversity impact of the proposal**

13. Section 106 Agreements provide infrastructure improvements to the benefit of the wider community.

## **Risk assessment**

14. Failure to have a fully operational single S106 database may lead to the council returning contributions and planning gain not materialising.

## **Financial implications**

15. Overview and Scrutiny has not been provided with indicative information at this stage, although we know that there are 14 S106 Agreements classed as significant i.e. £300,000 +.

## **Legal implications**

16. Section 106 (S106) of the Town and Country Planning Act 1990 allows a local planning authority (LPA) to enter into a legally-binding agreement or planning obligation with a landowner in association with the granting of planning permission. The obligation is termed a Section 106 Agreement.

These agreements are a way of delivering or addressing matters that are necessary to make a development acceptable in planning terms. They are increasingly used to support the provision of services and infrastructure, such as highways, recreational facilities, education, health and affordable housing.

## **Options considered**

17. Due to the risks identified Overview and Scrutiny supports the proposal that extra resource is made available to urgently complete the corporate S106 database.

## **Recommendation**

18. The Committee is asked to:

identify and implement an action plan that will lead to a completed corporate Section 106 database by May 2011.

**Ian Gibbons**

**Service Director – Legal & Democratic Services**

Report Author

Ceri Williams – Senior Scrutiny Officer

## Appendix

### Draft minute form Organisation and Resources Select Committee 18/11/2010

#### Section – 106 Task Group Update

In addition to the information provided with the Agenda, the Chairman of the Group clarified that 4 meetings had taken place to date and that the Task Group had concluded that an increase in resource was required in order to ensure the completion of the database that would store complete details of the anticipated 820 agreements in existence.

The importance of completing this task was highlighted as currently there was no consistency over the approach to payments made in relation to S106 agreement across the County.

14 agreements had already been identified as significant with approximately £300k planning gain per agreement. The Task Group were concerned that the S106 Officer estimated the exercise of sourcing the relevant details and updating the database with this information alone would take approximately one month to complete and the impact that could have on the organisation.

Ensuring discussion included that as part of the 'invest to save' approach providing additional resource in this area would prove of future benefit to the organisation and that the potential merging of hubs could result in the sourcing of the necessary information required becoming more problematic in the future.

Due to the concerns raised by the Task Group and Select Committee, a motion was proposed and endorsed by the Committee as follows:

#### **Resolved:**

- 1) To thank the Task Group for its continued good work in scrutinising Wiltshire Council's management of Section 106 agreements since receipt of its interim report in July 2010.**
- 2) To support the ongoing work to create a Corporate database to monitor Section 106 Agreements since the inception of Wiltshire Council.**
- 3) To request that the Cabinet Member note the concern of the Committee on the progress made towards cataloguing S106 Agreements approved by the 5 former councils and the potential risks this presents to:**
  - i) infrastructure developments not taking place due to funds not being used; and**
  - ii) developers requesting their contributions back as they have not been used in the designated time.**

- 4) To endorse the Task Group's recommendation to the Cabinet Member with responsibility for Development to ensure adequate resources were put in place to complete the cataloguing of historic S106 agreements and to ensure that the balance of information on S106 agreements with financial conditions is available to the Task Group within 12 months of its formation (May 2011).**
- 5) That the Scrutiny Committee is kept fully up to date on the development of the work undertaken.**
- 6) To note the S106 Officer's commitment to circulate to the Task Group details of the 13 largest S106 agreements on or before 8 December 2010.**
- 7) To note the recent establishment of the Cabinet (Capital Assets) Committee which has within its terms of reference responsibility for the strategic overview of the Council's policy on S106 funding and the use of funds;**
- 8) To advise the Cabinet (Capital Assets) Committee of the Task Group's concerns including the recommendation to the cabinet member to identify sufficient resources to complete the database;**
- 9) To received the Task Group's final report in due course to include the Council's approach to any potential 'roof tax' based tariff and the encouragement of future development within Wiltshire; and**
- 10) That the Cabinet Member, Corporate Director and Head of Planning be invited to appear and report on this matter at the next Committee in January 2011.**