

AGENDA SUPPLEMENT (1)

Meeting: Overview and Scrutiny Management Committee
Place: The Kennet Room - County Hall, Trowbridge BA14 8JN
Date: Tuesday 18 September 2018
Time: 10.30 am

The Agenda for the above meeting was published on ***10 September 2018***. Additional documents are now available and are attached to this Agenda Supplement.

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This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

7 **Executive Response to the Final Report of the Planning Committee System Task Group (Pages 3 - 8)**

A report from the Cabinet Member is attached.

8 **Task Group and Programme Board representative update (Pages 9 - 12)**

A report from Cllr George Jeans is attached

11 **Urgent Items (Pages 13 - 16)**

A report on New Statutory Scrutiny Guidance is attached.

DATE OF PUBLICATION: 14 September 2018

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Wiltshire Council

Overview and Scrutiny Management Committee

18 September 2018

Executive Response to the Final Report of the Planning Committee System Task Group

Purpose

1. To present the response of the Cabinet Member for Planning and Strategic Asset Management to the Task Group's final report, which was debated by Committee on 20 March 2018 and 5 June 2018.

Background

2. OS Management Committee established a Planning Committee System Task Group in June 2017 and the Task Group's final report ([here](#)) was received on 20 March 2018. Following debate the Committee did not endorse the report but asked the Task Group to meet with the Cabinet Member to discuss it and bring any further proposals back.
3. Following further discussions with the Cabinet Member, the Task Group brought a further report ([here](#)) to Committee on 6 June 2018, presenting a summary of the discussions and, in some cases, amended recommendations. The final recommendations were all endorsed by Committee with the exception of 11, which was not supported as set out below.
4. Following debate Committee resolved that the Task Group had concluded its work.

Executive response to the Task Group's recommendations

5. The Task Group's 12 recommendations are included below, plus relevant discussions notes where appropriate.
 1. **To note the overall positive responses from planning applicants and planning professionals who had recently used the planning application service to a survey of their experiences.**

Executive response: Noted

2. **To consider how the following improvements suggested within survey responses might be addressed, including, if appropriate, through the introduction of optional, charged-for services:**
 - a) **Further increasing the speed of the overall planning process**

- b) **Increasing the speed of the pre-application process**
- c) **Increasing the amount of application-specific advice provided to applicants during the pre-application process**
- d) **Enabling more direct discussions between planning officers and applicants, including on site.**

Executive response: These improvements are being considered within the procurement of new digital technology.

- 3. To inform applicants of town/parish council's role in the planning process on the website and relevant correspondence.**

Executive response: The role of town/parish council as Statutory consultees and relevant correspondence will be considered when website is reviewed.

- 4. To provide further information on plans to upgrade the digital technology used by the Planning team in order to support making the planning application service as effective as possible.**

Executive response: Upgrades continue and specification for new system is being agreed.

- 5. To note that reducing the council's area planning committee structure from 4 to 3 by dissolving Eastern Area Planning Committee would generate an approximate annual saving of £11,774 [figure corrected from the original recommendation].**

Executive response: Noted

- 6. That no reduction to the council's area planning committee structure should be made without sound evidence regarding,**
- a) **the benefits of doing so, and**
 - b) **the impact on local democracy and accountability (including the public's ability to attend planning committee meetings without incurring additional cost or inconvenience).**

Notes of further discussion between Task Group and Cabinet Member:

The Cabinet Member and Task Group agreed that any further scrutiny work on this matter would not be appropriate until the outcomes of the Electoral Commission's Boundary Review are known.

The Task Group concluded that, even if the total number of Wiltshire Councillors was reduced following the Boundary Review, it would not justify a reduction in the number of area planning committees.

The Task Group's report concludes that reducing the current area planning committee structure from four to three would save £11,774. If such savings were considered necessary, the Task Group would recommend they be achieved instead by reducing the number of area planning committee chairmen from four to two (chairing two committees each), yielding a reduced spend on councillors' Special Responsibility Allowances of £13,198pa.

Executive response: Noted

7. To retain the Strategic Planning Committee within the planning committee structure.

Executive response: Agreed

8. To note the overall positive response from planning applicants and planning professionals to survey of their experiences of the planning committee process.

Executive response: Noted

9. To require councillors calling applications in for committee decision to provide a reason for doing so, to be presented at the relevant committee meeting by the councillor or on their behalf.

Notes of further discussion between Task Group and Cabinet Member:

It was noted that the recommended amendment to the call-in procedure would need to be reflected in the relevant councillor guidance note, if accepted.

Executive response: Agreed

10. The Cabinet Member and Planning Committee Chairmen to
a) agree and implement a consistent approach to managing public participation at planning committee meetings

Notes of further discussion between Task Group and Cabinet Member:

The Cabinet Member noted that a consistent approach is already set out within the Planning Committee Procedure note, but it is not necessarily followed consistently.

Executive response: Briefing for Chairmen to agree a consistent approach

- b) adopt the Southern Area Planning Committee's approach to agreeing site visits*, with the committee chairman taking the final decision on what is a valid councillor request for a site visit when the request is made outside of a committee meeting.**

* As outlined in the Task Group's report, Southern Area Planning Committee sometimes takes the decision to hold a site visit before the application has appeared on an agenda or the committee has met.

Notes of further discussion between Task Group and Cabinet Member:

The Cabinet Member and Task Group agreed that it was planning committee members' duty to be familiar with the sites to be discussed.

The Task Group clarified that the recommended change is not intended to increase the number of site visits undertaken. It also does not remove the ability of planning committees to agree site visits when an application is being discussed. The recommended change is only intended to **add** the ability to agree site visits **before** discussion at committee and, in doing so, increase the speed and efficiency of the planning process.

Executive response: This has been referred to the Constitution Focus Group.

- 11. In order to protect public confidence in the openness and transparency of the council's decision making processes, pre-meeting briefings for full planning committee memberships to cease.**

Not endorsed by the Committee and therefore no Executive response required.

- 12. That the process for determining Rights of Way and Village Green applications is reviewed and potential improvements reported to Committee.**

Executive response: Agreed

- 13. In order to ensure a consistent approach to determining planning applications across the county, to undertake further analysis of statistical variances in the four area planning committees' practices regarding,**
- a) Calling planning applications in for decision by committee**
 - b) Deciding against planning officers' recommendations (including any correlation with subsequent planning appeal outcomes).**

Executive response: Further analysis will be prepared.

- 14. Periodic training and briefings for planning committee members (accessible online and via Skype) to be investigated.**
- NB. This was an additional recommendation added by Committee.

Executive response: Agreed

Proposal

6. That OS Management Committee note the Executive response to the Final Report of the Planning Committee System Task Group.

Cllr Toby Sturgis, Cabinet Member for Planning and Strategic Asset Management

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Wiltshire Council

Overview and Scrutiny Management Committee

18 September 2018

Task Group Update:

Wiltshire Online Programme Board

Cllr George Jeans, OS representative on the Wiltshire Online Programme Board has provided the following report:

1. My report has been made with much help from Sarah Cosentino.
2. The Wiltshire Online (WOL) programme is designed to provide a fibre broadband service via a variety of technologies including Fibre to the Cabinet (FTTC) and Fibre to the Premises (FTTP). The areas we intervene in is where commercial providers consider the area to be financially non-viable – this is known as the Intervention Area (see explanation below). Without Wiltshire Council's investment, approximately 40% of Wiltshire would not have access to superfast broadband. The council's approach is designed to deliver fibre broadband to the greatest number of premises for the budget available. As we continue to deliver the contracts, the overall percentage of coverage increases however, there may be very small pockets of premises possibly unprovided for. Dealing with these queries can take up a significant amount of officer time.
3. There are currently 4 contracts being managed within the WOL programme:

Contact 1	BT	Build Complete. 80,321 premises reached with FTTC fibre broadband.
Contact 2	BT	In-build State Aid due diligence work ongoing
Contact 3 (Ultrafast South)	BT	In-build State Aid due diligence work ongoing
Contact 3 (Ultrafast North)	Gigaclear	In-build State Aid due diligence work ongoing

4. Contract 1 was a great success with a take-up of the service of over 55%; this excellent take-up rate continues to generate further funds, referred to as Gainshare, into the contract for future investment.

5. The remaining contracts are in-build and the build is going well. The contracts are well managed via the weekly informal working sessions, monthly formal operational meetings and quarterly board meetings. Cllr John Thomson, Cabinet Member, attends the Project Board regularly and has been consistently robust when required in my opinion.
6. The purpose of this update is to introduce overview and scrutiny to the impact State Aid compliance is having on the in-build contracts and the work we are currently undertaking to resolve the issues. State Aid rules ensure public funds are not spent where a commercial provider is likely to or has already provided a fibre service.

How EU State Aid law shapes the WOL programme

7. The Wiltshire Online programme must comply with EU State Aid law to ensure that public money is invested appropriately. Each State Aid compliant activity is monitored and assured by central government. Prior to entering into each contract via the procurement process, Wiltshire Online conducted an Open Market Review with the communications industry to establish the current fibre broadband infrastructure already in place in Wiltshire and where there were plans for investment in such infrastructure in the coming three years. The areas that were not going to be targeted commercially formed what is known as our 'intervention area' and it is where we, as per EU State Aid law, are allowed to invest public money in.
8. Even though the intervention area is set at the procurement stage, the plans of commercial providers are fluid, they can and do change; their response to an Open Market Review is not a legal commitment. It is also worth noting that there are more fibre providers operating in Wiltshire than ever before. Consequently, in order to ensure that we do not breach State Aid law, the Wiltshire Online delivery team must monitor our funded build footprint on an ongoing basis. It is essential that we continue to invest public funds only in those premises that do not have a superfast fibre service.
9. This ongoing state aid due diligence work has identified premises across Wiltshire that already have a superfast service via commercial providers amending their build plans or deployment efficiencies that were not identified when defining the intervention area, this is referred to as overbuild. This is a national issue though Wiltshire has been instrumental in highlighting the problem and working with both central government and suppliers to determine a way forward.
10. This current State Aid issue is having an impact on all of our in-build contracts. Where we have identified any overbuild the supplier must look to remove the overbuild premises, review the impact on the remaining build area, provide an

impact assessment on the cost and implications to the remaining build. This is then assured as a formal contractual change to which we must agree.

Challenges

- Length of time it takes the suppliers to model the removal of premises, associated cost and impact on remaining premises in existing build plans
- Length of time it takes the suppliers to re-model to new premises
- Length of time it takes Central Government to assure before we complete the contractual change
- Build in some areas has been paused as we look to understand the overbuild
- An impact could be the current build plans change or there is a need to extend the build timeline and the message to residents needs to be managed

Opportunities

- The result of commercial investment and increased competition of fibre providers is more premises are receiving a fibre service
 - The overall percentage coverage of broadband in Wiltshire is increasing
 - The 'un served' percentage is decreasing
 - Premises we remove due to overbuild free up funds so we can make progress and extend our reach to pick up even more premises without a service
11. Overall the due diligence work is creating time and resource intensive contract management and deployment issues for the team to work through. However, it should be noted the short-term issues will eventually result in a better long term broadband picture for Wiltshire. The WOL board are monitoring the situation and working closely with both the suppliers and central government. Wiltshire Council in my opinion are diligently managing the Milestone to Cash process to ensure that a supplier is not paid for premises that are not eligible; it must be noted that no supplier has tried to do this and they are working closely with us to manage this issue.
12. We expect the current activities to be completed by the end of this quarter (December 2018) after which I can provide an update on the outcome. I am pleased to report this project has and is being managed well by Wiltshire Council. As I indicated before the program at present has been provided within budget and is to be applauded I believe.

Cllr George Jeans, OS representative on the Wiltshire Online Programme Board

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Wiltshire Council

Overview and Scrutiny Management Committee

18 September 2018

New Statutory Guidance on Overview and Scrutiny in Local Government

Purpose

1. To update the Committee on the drafting of new statutory guidance on Overview and Scrutiny (OS) by Central Government to be published by the end of 2018.
2. To ask the Committee to approve Wiltshire's response to the latest call for evidence in order to ensure that the guidance reflects the needs of councils, local people and of local democracy.

Background

3. In January 2017 the Department for Communities and Local Government (CLG) launched an enquiry looking at whether overview and scrutiny arrangements in England are working effectively and whether local communities are able to contribute to and monitor the work of their councils.
4. The enquiry included a call for evidence from local OS practitioners and in March 2017 Management Committee approved a detailed [response](#) from Wiltshire Council. The response set out how OS works in Wiltshire and what factors are most influential in making it effective. The CLG enquiry also received oral evidence from local authorities, the Centre for Public Scrutiny (CfPS), the Local Government Association and the Minister for Local Government, Rt Hon Marcus Jones MP.
5. The CLG Committee's enquiry led to a [report](#) containing 21 recommendations, one of which was that Central Government revise and reissue the statutory OS guidance to take account of OS's evolving role. The report also highlighted the importance that "organisational culture" (how people act and behave, and their values) has on the success of OS. A [commentary](#) on the CLG report and Government's [response](#) to it was received by Management Committee in March 2018. In its response, Government agreed to produce revised OS guidance by the end of 2018 and has enlisted the Centre for Public Scrutiny (CfPS) and the Association of Democratic Services Officers (ADSO) to help draft certain sections.

Developing the new Statutory Guidance

6. CfPS and ADSO are now inviting officers and councillors to discuss and provide feedback on what the new OS guidance should contain. The guidance will be statutory guidance, issued under section 9Q(1) of the Local Government Act 2000. This means that councils will have to "have regard to" the guidance in the way that they work and the decisions they make. The phrase "have regard

to” has a particular legal meaning, which is essentially that a body subject to such guidance has to have a clear reason for departing from it.

7. The status of the guidance means that it is important that it is supportive of arrangements that promote, support and do not hinder effective scrutiny. CfPS and ADSO are therefore keen to hear from local authorities on what they believe the guidance should (and should not) contain.
8. The CLG enquiry has already received practitioners’ views on OS in general so CfPS and ADSO are not requesting that the council’s response be resubmitted. Instead they are inviting thoughts on the specific questions and themes outlined below.
9. Wiltshire Council’s response to the original call for evidence emphasised that success was reliant on having the right local culture and did not particularly seek greater direction from Central Government. However, the Committee may wish to issue responses to the specific questions now posed to help ensure that aspects of good practice are embedded in the new statutory guidance.
10. CfPS and ADSO ask that in considering the 8 questions below, local councils pay particular regard to 3 key themes:
 1. **Scrutiny of “external bodies”** (this might be bodies operating under contract, commissioned partners, alternative delivery vehicles, more traditional partners and so on)
 2. **Access to information** (access to, and use of, information effectively by scrutiny having been a challenge for many practitioners)
 3. **Scrutiny of financial resilience and sustainability of councils** (recognising the recent, and continuing, pressures on the sector and scrutiny’s role in helping to understand them)
11. Some suggested Wiltshire responses are set out below. These have been formed in consultation with the Chairman and Vice-chairman.

Proposed Wiltshire Council response to the call for evidence

The new guidance could usefully encourage or embed the following, which have proved to be effective in Wiltshire:

- a) **How can the guidance help by making it clear to council executives / senior officers the kind of support that should be given to scrutiny (in a cultural sense)?**

This is addressed in the responses provided below.

- b) **In a more general sense how might the guidance help scrutiny to build a positive relationship with the executive, emphasising the need for scrutiny’s independence?**

- (i) A shared objective of an independent and yet collaborative relationship between the Executive and OS, with the emphasis on regular informal and formal dialogue between the leading members.
- (ii) Acknowledgement that OS determines its own work programme, but also that two-way dialogue on OS activities is desirable and helps to ensure maximum value is added.
- (iii) A convention of the Executive being proactive in bringing potential topics for review to OS.
- (iv) A convention of discussing preliminary OS findings with the Executive prior to being finalised and published; but with the objective being accuracy and ensuring that the full context has been considered, rather than in skewing findings in the Executive's favour.
- (v) Executive councillors never sitting as members on OS committees or other OS groups.

c) Should the guidance highlight the need for a greater profile and respect for scrutiny by the executive?

- (i) OS being seen as an integral part of policy development and decision making, with an expectation that all major programmes and decisions include an opportunity for timely input from OS.
- (ii) In particular, major strategic decisions such as business plans and annual budgets including opportunities for meaningful OS involvement to help ensure councils' financial resilience and sustainability.
- (iii) A culture in which Executive members and senior officers attend relevant OS meetings, and provide relevant requested information, by convention rather than to meet the minimum legislative requirements.
- (iv) OS councillors being invited, where appropriate, to sit on corporate programme boards to enable close OS input.
- (v) An emphasis on the many benefits of this kind of governance culture, such as improving decisions and helping to ensure that the voices of local people are heard.

d) Should the guidance go into detail on issues around work planning – recommending focus and prioritisation?

- (i) Regular informal and formal dialogue between Executive members, senior officers and OS members to discuss the OS work programme.
- (ii) Discussion of significant OS reviews with the Executive and senior officers prior to these being formally established (for the reasons outlined under question b).
- (iii) An acceptance that OS can often use its resources most effectively by a) focusing on the priorities of the council and its partners, and b) doing a few things well rather attempting to address everything.

e) How can the guidance help scrutiny with access to and use of information?

- (i) A presumption that information will be shared with OS unless there are specific reasons for not doing so (e.g. a high degree of commercial sensitivity) and, when appropriate, reasons for not sharing are given.

- (ii) A presumption that appropriate avenues for disclosing sensitive information will be considered in order to enable OS involvement, e.g. taking agenda items under Part 2.
- (iii) OS respecting the sensitivity and confidentiality of information and acknowledging the responsibility conferred in accessing it.
- (iv) Executive supporting and facilitating scrutiny of the councils' external partners and contractors.

f) Local councillors are best placed to understand the needs of local people, but how can the guidance help scrutiny councillors to ensure that scrutiny is supported to engage with the public in this way?

- (i) Acknowledgement that engagement with the public and service users can add great value to OS reviews and therefore council/partner decisions.
- (ii) OS having access to available council resources (e.g. support from relevant officer teams) in order to engage with the public.

g) How can the guidance help scrutiny more generally to develop a positive profile for itself at local level?

- (i) OS having access to available council resources (e.g. support from relevant officer teams) in order to promote its role and work at local level.

h) Are there sections / elements that you think might be particularly helpful – or unhelpful?

[None]

Proposal

- 12. To note that Central Government will be publishing revised Statutory Guidance on OS in Local Government by the end of 2018.
- 13. To receive the new Statutory Guidance once published.
- 14. To approve the proposed Wiltshire Council response to a call for evidence from CfPS and ADSO, which are drafting sections of the new guidance.

Paul Kelly

Head of Democracy (and Designated Scrutiny Officer)

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