

## **Introduction**

This report has been slightly modified and reprinted as a result of comments made at the OSC Management Committee meeting on 8<sup>th</sup> September 2006.

It should be noted that the final recommendations have not been changed.

The report was finalised by the original Task Group less John Noeken, who assumed Cabinet Responsibility for IT, Procurement and Partnerships.

A.N DEANE  
CHAIRMAN

## **Foreword**

It was with some trepidation that the members of the Hay Lane/Croft Road Link Task Group took on their role given its planning complexity and the considerable public disquiet over the way Swindon Borough Council, as the Local Planning Authority, and Wiltshire County Council as a consultee on Highway matters, had been seen to deal with the planning application on Swindon's Southern Development Area.

There were some complex planning issues involving changes to the draft Wiltshire and Swindon Structure Plan, which had generated great suspicion amongst Campaign Groups and members of the public leading to a challenge in the High Court over the modification to the plan, which was rejected. There was any number of public meetings over the planning application and the inclusion of the Hay Lane/Croft Road link, with its perceived effect on Junction 16 of the M4 Motorway.

This issue had also initiated a motion by Cllr Mollie Groom, a principal campaigner, at a meeting of Wiltshire County Council on the 18<sup>th</sup> May 2004 and although the motion was rejected, it was recommended that there should be a public meeting at Wootton Bassett on Condition 99; which has yet to take place. Petitions, both to Swindon Borough Council and Wiltshire County Council need to be acknowledged, in particular the petition to the Overview and Management Committee on the 15<sup>th</sup> March 2006. This led to the setting up of this Task Group.

We have not attempted to give a blow by blow account of all the details and timings and relevant dates which provide the background to the Wiltshire and Swindon Structure Plan, the SDA planning application or the events following it. Suffice to say we are in total agreement that there is a need to be seen to be more open and transparent in the planning process. This is not always easy and is complicated by pre-admission discussions that frequently take place between developers and the Local Planning Authority, where changes are frequently made to a planning application prior to its submission. Under those circumstances, it is easy to see how mistrust and suspicion can build up. It is hoped that the recommendations set out in this report will help dispel such suspicion in the future. Some changes have already been made to the Cabinet scheme of delegation by the Leader of the Council, Mrs Jane Scott, earlier this year. Our recommendations reflect the many concerns raised and amplify the requirement for openness and transparency in any good council.

I would like to sincerely thank my fellow task group members for their dedication in reaching our conclusions and to those many witnesses who provided invaluable

insight into the Hay Lane Croft Road Link scenario. Mr Ceri Williams made a vital contribution in acting as the Task Group clerk.

Finally, I commend the recommendations from this Task Group to the Overview and Scrutiny Management Committee for their implementation by Wiltshire County Council.

***John Noeken***

July 2006

Chairman Hay Lane/Croft Road Link Scrutiny Task Group

1. This report summarises the work undertaken by the Hay Lane/Croft Road Link Scrutiny Task Group from April 2006 - June 2006.

The Task Group comprised the following Councillors:



**Mr John Noeken (Chairman)**  
Conservative Member for Amesbury



**Mr Ian West**  
Liberal Democrat Member for Wilton and Wylde



**Mr Ricky Rogers**  
Labour Member for Salisbury West



**Mr Tony Deane**  
Conservative Member for Chalke and Nadder



**Brigadier Robert Hall**  
Conservative Member for Bedwyn and Collingbourne

## **Request for Scrutiny Review**

2. The Overview and Scrutiny Management Committee formed the Hay Lane/Croft Road Link Task Group on March 15, 2006, in response to Councillor Mollie Groom's request for a review to examine Wiltshire County Council's (WCC) actions, when responding to the Swindon Southern Development Area (SDA) planning application. Public questions and statements were submitted by the following people in support of Mrs Groom's request:
  - (i) Lady Inchape
  - (ii) John Hollis
  - (iii) Tom Pepperall, Chairman of Lydiard Millicent Parish Council
  - (iv) Charmian Spickernell, Campaign to Protect Rural England (CPRE)
  - (v) Geoff Yates, Chairman of Lydiard Tregoze Parish Council
  - (vi) Michelle Smith
  - (vii) Bridgett Tub
  - (viii) Councillor C Wannell, North Wiltshire District Council

## **The Task Group was set up with Terms of Reference to:**

3. *Review the actions of the County Council in respect of the planning application for the Croft Road/Hay Lane Link Road and associated matters.*

## **Evidence Gathering**

4. The process of evidence gathering had two distinct elements:

### **Stage 1**

In order to understand why WCC's actions were being questioned, the Task Group visited the application site, and met with the local member and campaign groups.

### **Stage 2**

The Councillors were briefed by the lead planning officer for WCC and the Cabinet Member for Planning and Waste. To provide independent evidence, the Task Group invited a series of planning experts to attend dedicated meetings.

**Figure 1 – Task Group Members on Site Visit**



5.

### **Dates of Meetings**

<b>12<sup>th</sup> April 2006</b>	Scoping Session
<b>21<sup>st</sup> April 2006</b>	Site Visit
<b>2<sup>nd</sup> May 2006</b>	Local Member – Councillor Mrs Mollie Groom Community Groups – Lady Georgina Inchcape, Mrs Charmian Spickernell CPRE Local Parish Councils – Mr Tom Pepperall Lydiard Millicent, Mr Geoff Yates Lydiard Tregoz
<b>5<sup>th</sup> May 2006</b>	Lead WCC Officer Mr Phil Tilley BSc., C.Eng., MICE –Transportation and Development Manager / Mr George McDonic (CPRE) – Former WCC County Planning Officer, MBE, DIPL,TP, FRTPI, PPFOB
<b>10<sup>th</sup> May 2006</b>	Cabinet Member Mr Toby Sturgis /Mr Mark Fox MSc, BSc (Hons), BTP, MRTPI – Pegasus Planning Group
<b>16<sup>th</sup> May2006</b>	Mr Steven Thorne RD, ADC, BTp, MRTPI– Head of Development Services - Salisbury District Council
<b>17<sup>th</sup> May 2006</b>	File Review (Tony Deane/Robert Hall)
<b>1<sup>st</sup> June 2006</b>	Mr John Orchard BSc, MICE, MIHT, MICArb, Chartered Engineer– Director: Scott Wilson
<b>11<sup>th</sup> July 2006</b>	Draft report approval.

### **The Swindon Southern Development Area (SDA)**

#### **Background**

6. The SDA, which is known locally as the 'Front Garden', is a 309 hectare site located south of Swindon. The area is mainly open farmland and is bordered



by the Old Town Railway to the north, the main great Western Railway to the west, Croft Road to the east and the M4 to the South.

7. In January 2001 the SDA was identified for development via the 2011 Wiltshire and Swindon Structure Plan. This document, agreed by the two Strategic Authorities, is the broad framework for identifying future development in Swindon and Wiltshire.
8. In 2002, Bryant Homes submitted a planning application for the SDA, consisting of approximately 4000 homes plus proposals for schools, retail, employment and green spaces. The application included a box tunnel under the M4 at the south west end of the site, forming the integral part of a link road between Croft Road and Hay Lane.

**Figure 2 – The SDA**



**Figure 3 – The SDA and Surrounding Area**



## **Wiltshire County Council as a Consultee**

9. The SDA falls within Swindon Borough Council's (SBC) boundary. Consequently, Swindon is the Planning Authority for the application, with legal responsibility for implementing planning law. This includes the Town and Country Planning (General Development Procedure) Order 1995 (amended in 2006), which calls for the planning authority to consult with neighbouring authorities on applications such as the SDA. The proposed development had clear impacts on Wiltshire, as a Highway Authority, with the tunnel feeding traffic on to Hay Lane (B4005) and then on to the A3102 up to Junction 16 of the M4 motorway. As a result on July 17, 2002 WCC received a letter from Swindon BC informing them of the outline application for the SDA (ref: S02.2000) and requesting comments. This was later followed by a revised planning application on 26 September 2003, which took into account the responses of consultees to the outline application.

## **The Key Issues**

10. Councillor Groom and supporters have always maintained that when WCC, as the Highway Authority, received notice of the SDA application, it did not follow the correct methods of response, allowing the SDA application to be pushed through without public debate, with public confidence in the way WCC handled this application extremely low.
11. To gain a detailed understanding of the campaign groups perspective, the Task Group invited Councillor Groom and supporters to present their arguments in a meeting held at the start of the review. This meeting produced a large amount of detailed information. However, on examination it was clear that there were five common issues that questioned the actions of WCC in response to the SDA application.

## **Issue 1 – Minimal Consultation to Local Member.**

12. Councillor Groom told the Task Group that she had received minimal consultation from WCC Officers in response to the SDA application. Receiving a copy of the original application from fellow consultee Lydiard Tregoz Parish Council, rather than from WCC, was used to illustrate this point. Mrs Groom noted that the only discussions she had been involved in took place in 2004, when she was asked to withdraw her motion requesting the Council to ask the Secretary of State to '**Call in**' the Swindon Development Application.

## **Issue 2 - WCC should have objected or insisted on a comparative assessment to the tunnel.**

13. The campaign groups told the Task Group that until October 2003, the Swindon Local Plan included the Southern Relief Road. This road was put forward as a solution to help ease the heavy traffic congestion found in the Old Town area of Swindon. The relief road would run from Croft Road, which forms the eastern boundary of the SDA, to Great Western Way, the dual carriageway connecting central Swindon to J16. The important point being that the Structure Plan saw Croft Road connecting to J16 via Great Western Way.

14. In 2003 this changed in the deposit draft alteration of the Wiltshire and Swindon Structure Plan 2016, when the Southern Relief Road was replaced by the Croft Road to Hay Lane Link.
15. When the SDA planning application (including tunnel) was received in July 2002, it was argued by the campaign groups that WCC, because of its strategic responsibility, should have insisted on a comparative assessment between the tunnel to Hay Lane and bridge to Great Western Way, or objected to the application.

### **Issue 3 - The Structure Plan Excluded Public Debate**

16. Additional frustration was voiced by the campaign groups towards the Structure Plan. This was mainly because of the decision to reclassify the Hay Lane Croft Road Link as non strategic. This decision effectively removed the road from the Examination in Public (2004), compounding the feeling of the campaigners that the application was being pushed through without public debate.

### **Issue 4 - Response to the application should not have been delegated to officers.**

17. Due to the strategic significance and controversial nature of the SDA application, it was argued by the campaign groups that a decision of this importance should not have been delegated to officers for approval. It was felt that the response from WCC as the highway authority should have had formal political involvement.

### **Issue 5 - The public meeting to discuss Condition 99 has taken over two years to be arranged**

18. The SDA Planning Application was approved in May 2005, subject to a series of conditions being satisfied. Condition 99 resulted from WCC concerns towards the development's impact on traffic at Junction 16, Hay Lane and Wharf Road, where WCC as the Highway Authority has a material interest.

### **Condition 99**

"No dwellings shall be occupied until details of the proposed alterations at Junction 16, and improvements to the B4005 Hay Lane and Wharf Road have been approved in writing by the Local Planning Authority in consultation with the Highways Agency, Wiltshire County Council and Swindon Borough Council as highway authorities. Such details will need to ensure that the proposed alterations are safe and legible for all road users, and will need to incorporate specific features to facilitate use by public transport, pedestrians, vulnerable users and cyclists. These features shall be provided with appropriate street furniture, lighting, traffic signal control equipment, signage and road markings. Such works shall be provided with environmental mitigation measures as agreed with the Local Planning Authority in consultation with the relevant Highway Authorities. For the avoidance of doubt, the details illustrated on the submitted plans shall not be taken as agreed and any



amendments shall be carried out in accordance with the latest technical requirements as set out in the Design Manual for Roads and Bridges or other standards and technical requirements considered appropriate by the Highways Agency.

Reason: In the interests of highway safety and to ensure that the operation of the junction is safe and not impaired by the additional traffic generated by the development.”

Relevant Policies: SEV2 Swindon Local Plan (1999)

19. Following Councillor Groom’s attempt to ask WCC to request the Secretary of State to ‘Call in’ the SDA application, on May 18, 2004, WCC resolved to appoint independent Transport Consultants to examine the developer proposals for Junction 16. The consultants brief was to also ensure that there would also be no material increase of traffic through the Lydiards and Wootton Bassett as a result of the application.
20. It was also agreed that the findings of the consultants would be presented in a public meeting in Wootton Bassett, before Swindon BC is given WCC’s official response to Condition 99.
21. As of July 2006, this public meeting has still not taken place, with a provisional date for late July now postponed until later in the year. The Task Group heard that this has caused frustration because:
  - the public feel they have been denied the opportunity to voice concerns
  - there is a fear that the meeting is a ‘rubber stamping exercise’ rather than an opportunity to raise concerns that will feed into WCC’s response to Swindon BC
  - there are concerns that a transport solution to meet the criteria below is not possible:
    - No greater congestion than there is today before the tunnel
    - No material increase in traffic through the Lydiards and Wootton Bassett

## **Task Group Findings/Conclusions**

22. The Task Group undertook a detailed review of WCC’s actions following receipt of the SDA application. This included interviewing Officers, independent witnesses and the Cabinet Member for Planning and Waste. This evidence has been reviewed and the areas that respond to the campaign groups’ five issues will be discussed in the findings. The Task Group reached final conclusions against each of the issues, which will also be detailed in this section.

### **Issue 1- Minimal Consultation to Local Member**

23. Councillor Groom’s evidence suggested that the responsibility on officers to consult with the local member had not taken place. At the time of handling the application this responsibility was formalised in WCC’s Constitution:

Appendix (ii) **BRIEFING AND INFORMATION FOR LOCAL MEMBERS**  
**PROTOCOL** states:

*"It is important that local members are equipped with the information that they need to carry out their role, including information which relates to their individual division. Such information may range from background briefing about their local area, to timely notification and advice about politically sensitive matters that affect any part of their 'patch'. (October 2002.)*

24. Officers highlighted that the application had attracted a large amount of media coverage, with significant milestones being well publicised in the public arena. However, the Task Group members wanted to explore the level of written consultation further and requested that the files held by WCC for the SDA be made available.
25. The review of the SDA files took place on May 17 2006. This information highlighted that Councillor Groom was consulted on the initial application submitted by the developer.
26. The details of this consultation, together with key dates are listed below:

<b>17 July 2002</b>	WCC receive letter from Swindon BC informing of request for outline planning permission for the Front Garden, which included the tunnel
<b>31 July 2002</b>	WCC send a holding reply to Swindon BC
<b>22 August 2002</b>	Councillor Groom is sent a copy of the master plan for SDA
<b>30 September 2002</b>	Officers voice concern about traffic in copied to Councillor Groom.

27. However, Councillor Groom did not immediately receive any written consultation detailing the revised application. This considered the responses of the consultees to the original application, and arrived with WCC on 26 September 2003. The first recorded written correspondence sent to Mrs Groom was 12 December, 2003, highlighting concerns towards the impact of the development on Junction 16. Further consultation took place on 23 January, 2004 when George Batten – Director of Environmental Services - copied to Councillor Groom a letter sent to Mrs Spickernell - CPRE Wiltshire.

### **Conclusion**

28. The Task Group agree that in overall terms the Constitution Protocol was followed correctly. The local member was informed of the application and its developments, with one exception, in September 2003 there was a 3 month delay in notifying Councillor Groom of the revised application.

**Issue 2 - WCC should have objected or insisted on a comparative assessment to the tunnel.**

29. Officers told the Task Group that they did not feel they were in a position to formally object to the SDA application, because if there was an appeal against the decision WCC would not have been able to successfully defend the position taken. However, it was emphasised that concern about the development was raised by the insistence for Condition 99. The Planning Officer also noted that it was his responsibility to facilitate development not to hinder it.
30. When questioned why they had not insisted on alternative to the tunnel, WCC Officers noted that they are only allowed to comment on the application presented to them. This view was supported by independent witnesses who stated that it is not the role of the consultee to question any developer on alternative solutions to the proposal. Alternatives to the tunnel should have been examined in the environmental statement that accompanied the application.
31. The Task Group challenged this position further by asking whether the fact that the Southern Relief Road was in the Swindon Local Plan, when the application (together with tunnel) was received by WCC in July 2002, should have led to more forceful objection. Officers responded by saying that they had queried why the bridge to Great Western Way was no longer proposed, and had been informed that it was not achievable due to environmental reasons, as detailed in the environmental statement that accompanied the application. Subsequently WCC learnt that the issue of ransom by Network Rail also formed a key issue in the decision to route via Hay Lane.
32. The file review undertaken by the Task group did not show any written evidence of Swindon BC being questioned on this matter, and it is the Task Groups opinion that WCC with its strategic responsibilities, failed to fully challenge this substantial change to the Swindon Local Plan.

**Conclusion**

33. Notwithstanding the missed opportunity in para 32, the Task Group accept that overall the SDA application was handled in good faith by WCC in its role as a consultee. However, the task group recognises the concerns raised, and will highlight the need to identify differences between planning applications and the Structure Plan or Local Plans, through the introduction of a new planning board, as proposed by the Director of Environmental Services.

**Issue 3 - The Structure Plan Excluded Public Debate**

34. Documentary evidence submitted by WCC officers allowed the Task Group to understand the Structure Plan process and the opportunities given for public debate. The key events are detailed below.
35. The WCC Cabinet met on 27 February, 2004 to review the Matters for Consideration at the Structure Plan's Examination in Public (EIP). The Hay

Lane/Croft Road Link was discussed, with the public given the opportunity to provide input. After consideration the Cabinet agreed to the alteration that removed the road from the EIP, noting that SDA planning application was then at an advanced stage, and its inclusion in a final adopted Structure Plan should be determined by the development control (planning) process.

36. Following this decision, the public were again given the opportunity to voice concern during the consultation period on the Matters for discussion at **'Examination in Public and Participants'**. This lasted for 28 days and ended on Thursday 8 April, 2004.
37. A preliminary meeting to the EIP took place on 14 April, 2004 at which Councillor Groom raised the question:  
*Why was the Croft Road to Hay Lane Link not included in the list of matters?*  
Mark Newey of the Joint Strategic Planning Authorities responded by emphasising that the development control process was addressing this issue. This was the final opportunity for public **Hay Lane/ Croft Road Link** debate during the Structure Plan Process.
38. The EIP took place between 22 June 2004 and 2 July 2004 without any discussions of the Croft Road Hay Lane Link because at this stage it was deemed to be a local road.

### **Conclusion**

39. The Task Group notes that until the Examination in Public, there were a number of opportunities to raise concerns about the proposed road link. The WCC Cabinet considered all the key milestones in the Structure Plan process, including meetings that the public were free to attend and raise questions. This invitation was taken up by the protestors campaigning against the tunnel link.

### **Issue 4 - Response to the application should not have been delegated to officers.**

40. The lead planning officer submitted evidence that illustrated that when WCC officers responded to the planning application, without formally involving the Cabinet or appropriate Committee, they were acting correctly within the procedures set by the Authority. The evidence presented was a copy of the minutes taken in December 13, 2000 by the Environment and Transport Committee, which highlighted the decision to allow Officers to continue to act with delegated authority. The minute below illustrates this decision:

### **The Environment and Transport Committee December 13, 2000 resolved to:**

(v) accept that it is impracticable to obtain committee reaction to planning applications on which the County Council is consulted,

(vi) express confidence in present arrangements whereby County Council officers provide professional advice in respect of new development, and

(vii) make no change, therefore, to current delegated authorities to officers in respect of responses to referred planning applications

41. When asked by the Task Group if this system still works, officers noted that when responding to planning applications WCC has to work within requirements of the Planning and Compulsory Purchase Act 2004, which places a duty, at s54, for statutory consultees to respond with a substantive reply within 21 days. Committee or Cabinet meetings meet approximately every 6 weeks, making it difficult to have political involvement with a planning application decision when there is a statutory requirement to respond within 21 days.
42. Therefore, when considering if the Task Group could recommend political involvement in this process, the initial evidence suggested that it was not practical. However, the file review showed that the 21 day rule was not followed by WCC (as illustrated below), and independent witnesses noted that this was not unusual with larger planning applications.

<b>26 September 2003</b>	Revised planning application arrives with WCC, requesting for
<b>31 October 2003</b>	WCC request a month's delay expressing concern over J16
<b>8 January 2004</b>	WCC and Swindon BC agree Condition 99

43. Another important point noted by the Task Group was that officers are usually aware of major applications before the formal planning application arrives on their desk. Therefore, the 21 day rule does apply but there is ample opportunity for the involvement of the Cabinet Member.
44. When considering this evidence the Task Group felt that this process would benefit with member involvement. By referring applications such as the SDA to the Cabinet Member for response rather than delegate to officers, the process would be seen to be more open and transparent and would allow further scrutiny of decisions by Councillors.

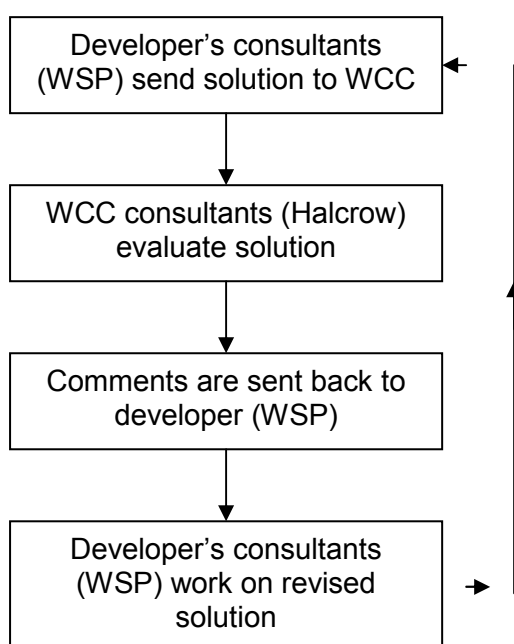
### **Conclusion**

45. The Task Group agree that responses to future strategic 'out of county' applications such as the SDA should not be delegated to officers. Official responses should be directed through the Cabinet Member because of the scale and potentially controversial nature of such an application. The Task Group will highlight the process for identifying the 'major' applications that are passed to the Cabinet Member in the recommendations.

**Issue 5 - The public meeting to discuss Condition 99 has taken over two years to be arranged**

46. Officers told the Task Group that WCC and the developer (formerly Bryant Homes – now Taylor Woodrow) have employed independent transport consultants to work on traffic solutions for the development. The process for how the two consultants work with each other is illustrated in figure 4:

**Figure 4 – Process for Agreeing Transport Solution for Junction 16**



47. The speed of progress is driven by the developer and the challenge, if possible, in delivering a workable transport solution. As of the time of the scrutiny review, final agreement had not been achieved. John Orchard of Scott Wilson noted that an acceptable solution may not be possible without more substantial changes at J16 than those presently under consideration. This may lead to the indefinite deferment of the proposed public meeting at Wootton Bassett.
48. Both officers and the Cabinet Member emphasised that the Wootton Bassett public meeting will allow public involvement. The first part of the meeting will provide information on the traffic solution reached. This will include a Vissim (visual traffic simulation) model to show how Junction 16 will work. Some information will also be provided to demonstrate the effect on local roads had the bridge solution to Great Western Way (A3102) been pursued.
49. The second part of the meeting will allow the public to ask questions about the solution proposed. For instance the Campaign groups voiced concern about the impacts other developments such as the Creative Planet project at Wroughton will have on J16 capacity. The WCC Cabinet will consider the public feedback before sending their final response to Swindon BC.

**Conclusion**

50. The Task Group is satisfied that the Condition 99 meeting will allow public input and that the delay has been caused by the challenge in finalising the



transport solution for J16. The Task Group also recognise the need to hold the meeting as soon as possible, and will address this point in the recommendations.

## Recommendations

51. The Task Group's commitment to help restore public confidence in the way WCC handles strategic 'Out of County' applications is key to the recommendations. WCC has documented its commitment to transparency and openness in the way it delivers local service, these recommendations will help to realise these goals.
  - (1) The Task Group supports and recommends the creation of a Planning Board. This would consist of Senior Environmental Service Officers and Cabinet Member. The board would monitor strategic/major planning applications, particularly at pre-application stage; enabling potential contentious applications to be identified at an earlier stage of the planning process.
  - (2) The Task group recommends that strategic 'out of county' applications are passed to the cabinet member for response. The new Planning Board will be responsible for identifying the applications that are passed to the Cabinet member.
  - (3) Despite the complications in finalising the transport solution for J16, the Task Group recommends that the Wootton Bassett public meeting to discuss Condition 99 should be finalised as soon as possible.
  - (4) The Task Group endorses the installation of the planning website, scheduled for later this year, which will permit on line tracking and better visibility of planning applications. The Task Group recommends that this system should also include strategic "out of county" applications where WCC is included in the consultation process.

### **Decision Making Process, Implementation and Monitoring of Recommendations**

52. This Task Group report will be submitted to the Overview and Scrutiny Management Committee on September 8 2006 for endorsement, following which it will be submitted to the Cabinet Member for Planning and Waste for consideration and decision.
53. The Overview and Scrutiny Management Committee will monitor implementation of the recommendations if approved.