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Contact:

James Dearling

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27 May 2021

Dear Councillor,

Your attendance is requested at a meeting of the **OVERVIEW AND SCRUTINY COMMITTEE** to be held in on **TUESDAY, 8 JUNE 2021** at **7.00 pm**. This meeting will be held via Ms Teams.

Yours faithfully,

James Whiteman
Managing Director

MEMBERS OF THE OVERVIEW AND SCRUTINY COMMITTEE

Chairman: Councillor Paul Spooner
Vice-Chairman: Councillor James Walsh

Councillor Chris Blow
Councillor Colin Cross
Councillor Guida Esteves
Councillor Graham Eyre
Councillor Angela Goodwin

Councillor George Potter
Councillor Tony Rooth
Councillor Will Salmon
Councillor Deborah Seabrook
Councillor Fiona White

Authorised Substitute Members

For the Overview and Scrutiny Committee, there is no limit on the number of substitute members for each political group on the Council.

QUORUM: 4

WEBCASTING NOTICE

This meeting will be recorded for live and/or subsequent broadcast on the Council's website in accordance with the Council's capacity in performing a task in the public interest and in line with the Openness of Local Government Bodies Regulations 2014. The whole of the meeting will be recorded, except where there are confidential or exempt items, and the footage will be on the website for six months.

If you have any queries regarding webcasting of meetings, please contact Committee Services.

THE COUNCIL'S STRATEGIC FRAMEWORK

Vision – for the borough

For Guildford to be a town and rural borough that is the most desirable place to live, work and visit in South East England. A centre for education, healthcare, innovative cutting-edge businesses, high quality retail and wellbeing. A county town set in a vibrant rural environment, which balances the needs of urban and rural communities alike. Known for our outstanding urban planning and design, and with infrastructure that will properly cope with our needs.

Three fundamental themes and nine strategic priorities that support our vision:

- | | |
|---------------------|--|
| Place-making | Delivering the Guildford Borough Local Plan and providing the range of housing that people need, particularly affordable homes |
| | Making travel in Guildford and across the borough easier |
| | Regenerating and improving Guildford town centre and other urban areas |
| Community | Supporting older, more vulnerable and less advantaged people in our community |
| | Protecting our environment |
| | Enhancing sporting, cultural, community, and recreational facilities |
| Innovation | Encouraging sustainable and proportionate economic growth to help provide the prosperity and employment that people need |
| | Creating smart places infrastructure across Guildford |
| | Using innovation, technology and new ways of working to improve value for money and efficiency in Council services |

Values for our residents

- We will strive to be the best Council.
- We will deliver quality and value for money services.
- We will help the vulnerable members of our community.
- We will be open and accountable.
- We will deliver improvements and enable change across the borough.

AGENDA

ITEM NO.

1 **APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS**

2 **LOCAL CODE OF CONDUCT AND DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS**

In accordance with the local Code of Conduct, a councillor is required to disclose at the meeting any Disclosable Pecuniary Interest (DPI) that they may have in respect of any matter for consideration on this agenda. Any councillor with a DPI must not participate in any discussion or vote regarding that matter and they must withdraw from the meeting immediately before consideration of the matter.

If that DPI has not been registered, the councillor must notify the Monitoring Officer of the details of the DPI within 28 days of the date of the meeting.

Councillors are further invited to disclose any non-pecuniary interest which may be relevant to any matter on this agenda, in the interests of transparency, and to confirm that it will not affect their objectivity in relation to that matter.

3 **MINUTES** (Pages 5 - 12)

To confirm the minutes of the Committee meeting held on 2 March 2021.

4 **RESPONSE TO COVID-19**

5 **LEAD COUNCILLOR QUESTION SESSION**

A question session with the Lead Councillor for Community and Housing. Councillor Julia McShane's areas of responsibility:

- Health
- Access and Disability
- Grants and voluntary services
- Handyperson
- Housing
- Housing standards (Houses in Multiple Occupation, private rented sector)
- Wellbeing
- Safety
- Careline
- Care and Repair
- Homelessness

6 **REPORT OF AN INVESTIGATION BY VWV LLP APPOINTED BY THE MONITORING OFFICER FOR GUILDFORD BOROUGH COUNCIL RELATING TO THE GARDEN VILLAGE AT THE FORMER WISLEY AIRFIELD** (Pages 13 - 56)

7 **ANNUAL REPORT: MODERN SLAVERY MOTION** (Pages 57 - 64)

8 **OVERVIEW AND SCRUTINY WORK PROGRAMME** (Pages 65 - 74)

To agree the draft Overview and Scrutiny work programme.

Please contact us to request this document in an alternative format

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OVERVIEW AND SCRUTINY COMMITTEE

2 March 2021

- * Councillor Paul Spooner (Chairman)
- * Councillor James Walsh (Vice-Chairman)

- | | |
|-----------------------------|-------------------------------|
| * Councillor Dennis Booth | * Councillor Ramsey Nagaty |
| * Councillor Colin Cross | * Councillor George Potter |
| * Councillor Graham Eyre | * Councillor Tony Rooth |
| * Councillor Angela Goodwin | * Councillor Deborah Seabrook |
| Councillor Tom Hunt | Councillor Fiona White |

*Present

Councillors Joss Bigmore (Leader of the Council and Lead Councillor for Service Delivery), David Bilbé, Chris Blow, Julia McShane (Lead Councillor for Community), John Redpath (Lead Councillor for Economy), Maddy Redpath, Caroline Reeves (Deputy Leader of the Council and Lead Councillor for Housing & Development Control), John Rigg (Lead Councillor for Regeneration), and James Steel (Lead Councillor for Environment) were also in attendance.

OS58 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

The Committee was advised of apologies for absence from Councillors Tom Hunt and Fiona White.

OS59 LOCAL CODE OF CONDUCT AND DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS

There were no declarations of Disclosable Pecuniary Interests.

The Chairman declared a non-pecuniary interest in item 6, Guildford Crematorium Redevelopment Post Project Review, due to his past association with the project while Leader of the Council. He indicated that this past association would not affect his judgment and participation or chairing.

OS60 MINUTES

The minutes of the Overview and Scrutiny Committee meeting held on 2 February 2021 were agreed.

OS61 RESPONSE TO COVID-19

The Leader of the Council and Lead Councillor for Service Delivery introduced the item. He spoke of the optimism around falling infection rates and plans to re-open facilities and resume holding events. The Leader of the Council and Lead Councillor for Service Delivery advised the Committee of a drive through COVID testing facility at Onslow Park and Ride for keyworkers. He praised the progress of the vaccination programme regionally and in local Primary Care Networks, and thanked residents who had volunteered to help the process. He noted that the Borough's boundaries did not align with those of the health service and acknowledged that this meant there was a need to co-ordinate and improve communications for residents across the whole Borough.

The Managing Director gave a presentation on the current COVID-19 situation and the Council's response, beginning with an update on local cases. The Committee was advised

that the COVID-19 infection rate in Surrey was 46.8 per 100,000, lower than the national rate of 88.6 per 100,000, while Guildford's rate had decreased to 32.9 per 100,000. The Managing Director advised that in the previous week there had been 560 new cases in Surrey, of which 49 were in Guildford. The meeting was informed that as at 1 March there were 2,605 registered COVID-related deaths in Surrey, with 211 in Guildford.

The Managing Director advised the meeting of key COVID-19 issues: the Government road map to a phased easing of COVID restrictions; support and services for the most vulnerable, such as food parcels and community meal deliveries; business support, including the Local Restrictions Support Grant (for closed businesses); Council services; staff sickness; vaccination and testing, and communications strategy. The Committee heard that as part of the Council's duty to warn and inform during crises, 33,000 emails and 30,000 printed postcards were sent to residents advising of key information. The Managing Director informed the meeting that although the emails and postcards sent out included a link to information on the Surrey Heartlands Clinical Commissioning Group website he was aware that parts of the Borough were covered by other Clinical Commissioning Groups. He indicated that as the vaccination programme progressed information from all relevant CCGs would be included in the Council's communications.

In response to a question, the Community Wellbeing Manager outlined measures by Council staff to communicate and engage with clinically vulnerable people to increase the vaccination uptake.

In reply to a suggestion from a member of the Committee, the Managing Director indicated the value in discussing the post-pandemic recovery at a subsequent Committee meeting.

The Committee agreed to continue the COVID-19 response updates at its meetings.

OS62 LEAD COUNCILLOR QUESTION SESSION

The Chairman welcomed the Lead Councillor for Regeneration and reminded the meeting of Councillor Rigg's main areas of responsibility: the town centre master plan; infrastructure; major projects; and strategic asset management. The Chairman indicated that due to the number of questions likely and the length of the evening's agenda it might be necessary to invite Councillor Rigg for a further question session in the summer. The Chairman advised the meeting that Councillor Rigg had requested to make an opening statement.

The Lead Councillor for Regeneration stated that he had two portfolios: major projects and regeneration. He confirmed that many questions from the Committee had been shared with him in advance of the meeting.

The Lead Councillor for Regeneration outlined the role and responsibilities of the Major Projects Portfolio Board. The meeting heard that the extensive requirements of the Board were not being met and as a consequence the Lead Councillor for Regeneration had formed six sub-programme boards to cover the detail of active projects; namely, Weyside, North Street, Ash Projects, the Town Centre Master Plan, Housing Development, and Other Projects.

The Lead Councillor for Regeneration stated that the Council's Major Projects included Weyside Urban Village, Slyfield internal estate road, Guildford Council new Depot, the Town Centre Master Plan, the Sustainable Movement Corridor, the flood alleviation study, the Guildford West railway station and (soon also) Guildford East railway station, the Public Realm improvement, The Guildford Museum, the Walnut Bridge replacement, the town centre approaches, the A31/A331 and A323/A324 Hotspots project, the Ash Road Bridge project, Guildford Park housing scheme, Bright Hill, Blackwell farm, Guildford community

bike share, Guildford Crematorium, and Millbrook Weir. The meeting heard that the Lead Councillor for Regeneration no longer had responsibility for the Spectrum project.

The Lead Councillor for Regeneration referred to his past difficulties obtaining key information on major projects. He suggested that the results of major projects undertaken by the Council had been mixed and identified a lack of relevant project experience within the Council together with a failure to obtain appropriate input from external experts. The Lead Councillor for Regeneration stated that he had to take advice from the Local Government Association and seek assistance from the Council's solicitor to try and get access to project meetings taking place with external advisors. He informed the Committee that he had been unhappy with both the management and reporting of projects at the Council.

With reference to the North Street project, the Lead Councillor for Regeneration informed the Committee of a past lack of information available to him. He indicated that progress had been made on the North Street project in 2020 and that the Council would be updated shortly.

The Lead Councillor for Regeneration indicated that the Ash Road Bridge was an infrastructure project and suggested that as such it was the responsibility of Surrey County Council and should not have been embarked upon by the Council. The Committee heard about the Lead Councillor for Regeneration's concerns with the project and he advised that that information on the Ash Road Bridge, including costs and funding, would be available to Councillors at the March 2021 meeting of the Executive. In addition, the Lead Councillor for Regeneration indicated he had concerns with other projects, including the Walnut Bridge, the Guildford Crematorium, and the Guildford Museum.

With reference to a review of the Council's major projects, the Lead Councillor for Regeneration advised the meeting that a number of repeated shortcomings had been identified, including a lack of clear project mandates, absence of a robust business case, a want of appropriate expertise, no audit trail for decision-making, no strategic consensus, and no standardised methodology. In addition, he suggested this approach had led to an acceptance within the Council to approve increasing project costs.

The Lead Councillor for Regeneration suggested that many major infrastructure projects taken on by the Council should have been undertaken by Surrey County Council. While referring to the A31 Hotspots project, the Sustainable Movement Corridor, and Ash Road Bridge as examples of such projects, he indicated he supported their aims.

The Lead Councillor for Regeneration referred to the Council's new project governance and noted the importance of appointing qualified and experienced project managers. He advised the meeting of the failure to deliver the Guildford Park Road housing project.

The Lead Councillor for Regeneration outlined the challenges for Guildford and its town centre and referred to the town centre master plan project. He indicated that in a few weeks' time there would be presentations on progress made to the Executive, full Council, and officers, and then briefings to community and resident groups. The meeting was advised of the importance of strategic asset management and the Council's existing landholdings to deliver projects.

The Chairman thanked the Lead Councillor for Regeneration for his statement and started with questions from Committee members.

In reply to a question about the working relationship with Surrey County Council (SCC), particularly, Surrey Highways, the Lead Councillor for Regeneration indicated that the

relationship was developing. He informed the meeting that he was reluctant for the Council to take on further road projects.

The Lead Councillor for Regeneration advised the Committee of progress relating to the proposed Guildford East and Guildford West railway stations.

In response to questions, the Lead Councillor for Regeneration indicated that pulling together housing delivery would be a task for the Council's new Director of Housing.

The meeting heard that there would be a series of three consultations on the North Street redevelopment prior to final submission by the developer. The Lead Councillor for Regeneration indicated that a similar consultation process would be followed for the St Mary's Wharf site.

In response to a question on the progress of the Sustainable Movement Corridor project, the Lead Councillor for Regeneration indicated that the University of Surrey had not confirmed its agreement to the current phase of the project. He advised the meeting that funding for the current phase was in place and indicated that a ransom strip relating to the University's development of Blackwell Farm was a separate issue.

The Chairman thanked the Lead Councillor for Regeneration for his attendance and statement.

OS63 GUILDFORD CREMATORIUM REDEVELOPMENT POST PROJECT REVIEW

The Lead Councillor for Environment introduced the report submitted to the Committee. He advised the meeting that the Guildford Crematorium redevelopment project had addressed shortcomings with the previous crematorium building and had been underpinned by a sound business case which had been delivered. He suggested the report provided a balanced account of successes and learning points from the project.

The Parks and Landscape Manager confirmed that the quantity surveyor on the project, the architect, the main contractor, and the cremator supplier were at the meeting to support the Committee's review. He summarised the background and results of the project and gave a presentation on the redevelopment of the site and facilities. The Committee was advised of issues that arose, including an error in calculating the stack discharge height.

The Parks and Landscape Manager informed the meeting that the stack discharge height error was identified by a member of the public and had now been remedied. The Parks and Landscape Manager indicated that an internal investigation into the error had been completed and that an external audit of the issue was being undertaken. The meeting was informed that the investigation of the stack height error would be considered by the Committee at a later date. In addition, the Parks and Landscape Manager summarised the learning from the post project review.

Next, the meeting heard from Mr Peter Coleman from Guildford Society. Mr Coleman referred to the Guildford Crematorium winning the Society's design awards in two categories and praised the qualities of the design and architecture and the achievements of the project.

In response to a question, the Planning Development Manager confirmed that an air quality impact assessment was not a requirement at the time of the planning application in 2017 and was not requested as the new crematorium would be replacing an existing one on the same land.

With reference to the value of an air quality impact assessment, a member of the Committee suggested the Council should not necessarily be content with legal minimum standards. In his reply, the Parks and Landscape Manager referred to the cost implications of such an assessment.

A member of the Committee suggested that the scope of all Council projects should be specified clearly to avoid adding changes and costs later. The meeting heard that a well-defined scope would enable a more accurate projection of project costs and assessment of project viability.

In reply to a question, the Parks and Landscape Manager indicated that a final breakdown of the cost overruns for the project was not yet available. The Lead Specialist (Finance) summarised the discounted cash flow analysis within section 3.5.5 of the report submitted to the Committee and indicated she could provide further details if requested. A member of the Committee suggested the value of clearer financial explanations within reports.

The Parks and Landscape Manager advised the Committee of the merit in a project manager and project support dedicated to project delivery, rather than combining responsibility for a major project with another full-time role.

A member of the Committee suggested the Stack Discharge Height Error Internal Investigation (attached as a not for publication appendix to the report submitted to the Committee) could have been published with redactions.

RESOLVED: That, under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the consideration of information contained within the Appendix to the report on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Act; namely, information relating to the financial or business affairs of any particular person (including the authority holding that information).

With the public excluded, the meeting discussed the emissions stack error, the timescale in which members of the public advised of the stack error and the Council's response, the performance of contractors, the possible publication of the external audit of the internal investigation of the emissions stack error, and the inclusion of NO_x abatement plant as a variation in the contract.

Following the Committee's consideration of the exempt information the public was readmitted to the meeting.

The Managing Director thanked the Parks and Landscape Manager for project managing the redevelopment of Guildford Crematorium.

RESOLVED: (I) That the account of the project as presented in the report submitted to the Committee be noted.

(II) That the Executive be requested to ensure

- (i) Council projects are accurately scoped and well-defined at the outset and any extension of scope is assessed carefully.
- (ii) Council projects go beyond legal minimum standards and aspire to be the best possible.

- (iii) Senior officers be held accountable for ensuring that resources in place for projects are adequate.

OS64 UPDATE ON GYPSY AND TRAVELLER UNAUTHORISED ENCAMPMENTS AND POSSIBLE TRANSIT SITE IN SURREY

The Community Wellbeing Manager introduced the item and advised that there were two strands to the report submitted to the Committee: the Council's procedure for unauthorised encampments on Council land and the Surrey Leaders Group's proposal for a transit site to help alleviate the pressures surrounding unauthorised encampments on local communities.

In response to questions, the Community Wellbeing Manager advised that the Surrey Leaders Group had acknowledged the need for further transit sites across the county. She indicated that the transit site was the first step in a process. The Community Wellbeing Manager indicated that she was not aware of the design and facilities planned for the transit site.

The Community Wellbeing Manager advised the Committee that the Council's communications with travellers visiting the Borough regularly was excellent. She advised that both support and a protocol to establish communications were in place for travellers that might be new to the Borough.

In reply to a question from a Committee member, the meeting heard that the Council had a duty to assess the welfare needs of travellers at unauthorised encampments. The Community Wellbeing Manager indicated that based on experience of enforcement against unauthorised encampments the welfare needs of travellers were seldom judged to take priority over the issue of any trespass being committed.

In response to questions about the provision of COVID vaccinations for travellers, the Community Wellbeing Manager advised the Committee that across the country travellers had been targeted by NHS outreach services. She informed the Committee that travellers in priority vaccination groups had been offered support to access vaccine bookings online.

In response to calls for a plan from Surrey Leaders Group for further transit sites in the county, the Deputy Leader of the Council and Lead Councillor for Housing and Development Control advised the meeting that Surrey Leaders Group recognised further transit site provision was necessary. The Chairman noted the value in receiving an update on the matter from the Leader of the Council.

OS65 OPERATION OF THE LEISURE MANAGEMENT CONTRACT, 2019-20

The Lead Councillor for Environment introduced the item. He advised the meeting that the report submitted to the Committee provided a summary overview of Freedom Leisure's performance in operating the Council's leisure facilities for the ninth contract year (from 1 April 2019 to 31 March 2020). He stated that the preparation of the annual report by Freedom Leisure was delayed due to the furloughing of staff during the pandemic. In addition, the meeting heard that Freedom Leisure had been unable to provide all the information that would normally be included within the annual report, including a separate catering profit and loss account.

The Lead Councillor for Environment stated that the reported year's figures for 2019/20 showed a reported deficit of £43,667 and that consequently no additional payment was due to the Council. He confirmed that the overview and scrutiny working group members were

generally happy with the day to day operation of the facilities, but had expressed concern over the level of investment, the rise in customer complaints, and the long term strategy to address energy consumption.

A member of the Committee asked whether Freedom Leisure and the Council intended to produce an assessment in 6-9 months' time of the likely future demand for leisure facilities post-pandemic. In response, the Leisure Services Manager indicated after a successful vaccination rollout he expected people's leisure choices and behaviour to revert to those preceding the pandemic. In addition, he highlighted the possible adverse impact of social distancing restrictions on leisure facilities and leisure businesses and noted the changing nature of the leisure sector.

In reply to a question, the Leisure Services Manager indicated that Freedom Leisure's analysis of its customer complaints and its information sharing with the Council could be improved.

In response to questions, the Leisure Services Manager advised the Committee that enabling works for a major project to renew the drainage at the lido had been completed and that the main works should start at the end of the 2021 season. He informed the Committee that a new toilet block and changing cubicles would be provided as part of the project.

OS66 OVERVIEW AND SCRUTINY WORK PROGRAMME

The Chairman advised the meeting that since the publication of the report submitted to the Committee the Safer Guildford Partnership Annual Report had been rescheduled from July to September.

In response to a question from a Committee member, the Chairman confirmed that an update report on unauthorised gypsy and traveller encampments and Surrey's transit site would be scheduled for six months' time.

RESOLVED: That, subject to the amendments above, the work plan as presented in the report submitted to the Committee be approved.

The meeting finished at 9.49 pm

Signed

Date

Chairman

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Overview and Scrutiny Committee Report

Ward(s) affected: All

Report of Diane Owens, Monitoring Officer

Author: Mark Heath, Consultant at VWV

Tel: 0117 314 5637

Email: Mheath@vww.co.uk

Date: 8 June 2021

Report of an investigation by VWV LLP appointed by the Monitoring Officer for Guildford Borough Council relating to the Garden Village at the former Wisley Airfield.

Executive Summary

Cllr John Redpath, a Councillor at Guildford Borough Council ("the Council") raised certain issues with the Council. These issues related to the former Wisley airfield development and the bid to Government submitted jointly by the Council and the private sector partners.

The Council's Monitoring Officer at the time instructed VWV to carry out an investigation into those issues. VWV is a full service commercial law firm, with 82 Partners and over 350 lawyers, working across offices in Watford, London, Bristol and Birmingham. VWV have been providing legal advice to local authorities for over twenty years and have a national reputation for public sector property work, acting for both central and local government clients.

The outcome of the investigation was that VWV did not consider that the matters raised by Cllr Redpath raised any issues that needed any further action by the Council. VWV did however think there was an issue for the Council to reflect upon and this is set out in Section 5 of this report.

This report summarises the investigation, findings and suggested learning for the Council. A full copy of the investigation report produced by VWV is attached to this report.

We were subsequently requested to look into two further matters by the Committee and have produced a further report addressing those. That is also attached.

Recommendations to the Committee:

1. That the Committee notes the reports of the investigations; and
2. That the Committee considers the matter raised by the investigators for the Council

Reasons for Recommendations:

1. It is appropriate that the Committee are made aware of and note the investigation carried out by VWV and its outcome
2. VWV identified an issue for the Council to reflect upon and this is set out in Section 5

of this report. They were also asked for lessons learnt regarding the call-in issue in their second investigation and have advised these. The Committee will wish to consider whether or not they agree with these and if they do, how these matters should be taken forward

Is the report (or part of it) exempt from publication?

No

1. Purpose of Report

- 1.1 The purpose of this report is to place before Members the outcome of an investigation by VWV LLP appointed by the Monitoring Officer for Guildford Borough Council ("the Council") relating to the Garden bid at the former Wisley Airfield.

2. Strategic Priorities

- 2.1 The effective delivery of projects such as Wisley are fundamental to the Council's strategic framework. When issues are then raised in relation to the delivery of projects, it is important that they are properly investigated. This is what the Council did. Therefore although this report does not directly impact upon the Council's strategic priorities, indirectly it is significant given the importance of effective delivery of major projects to the realisation of the Council's vision.

3. Background

- 3.1 This was the second investigation commissioned by the Council into issues regarding the former Wisley Airfield.
- 3.2 The first was undertaken in 2019 by Mr Richard Lingard, a consultant with extensive experience of local government. He was commissioned to conduct an independent review of the working relationships between officers, members and Savills (agents for the developers of the Wisley site) in respect of their involvement in the application for Garden Village status for the development of Wisley Airfield.
- 3.3 A summary of Mr Lingard's report (which contained records of confidential discussions with staff members) was produced, together with a note of the Managing Director's conclusions in response. The investigation found that there had been no wrongdoing though there were lessons to be learnt.
- 3.4 This was then presented at a meeting of the Council on 9 October 2019: <http://www2.guildford.gov.uk/councilmeetings/documents/g864/Printed%20minutes%2008th-Oct-2019%2019.00%20Council.pdf?T=1>
- 3.5 In relation to this, the second investigation, VWV were formally engaged in November 2019 by the Council's former Monitoring Officer to look into a number of issues that had been raised by Councillor John Redpath with the Council.

- 3.6 The Council set out the issues raised by Councillor Redpath in the Terms of Reference to which VWV were required to work.
- 3.7 VWV interviewed Cllr Redpath in early December 2019. Councillor Redpath raised various matters during this interview which VWV sought clarification from the Council on in December 2019 as to whether or not they fell within the scope of VWV's investigation as set by the Council.
- 3.8 The Council clarified this in February 2020 and amended the scope of VWV's investigation.
- 3.9 The (amended) scope of VWV's investigation were as follows:
- a. ***"To examine, through a review of correspondence and such interviews as the reviewer considers expedient and desirable, the alleged utilisation by the Council of plans authored by Davis Landscape Architects (consultants to Wisley Property Investments Ltd) as part of the Council's submission of an application to the secretary of state for support in achieving garden village status for the former Wisley Airfield, as described more fully in the report to the Executive of 30 October 2019 and to recommend whether to:***
 - i. *take no further action; or*
 - ii. *offer specific guidance for future reference, or to adopt a change in practice*
 - b. ***To provide a general description of how a Council may act as a promotor/supporter of a Garden Village application, with a private sector land owner (including what sort of project agreements would be expected, and how the Council is both an executive and a regulatory decision maker (in the planning context), and how the law provides a framework for this decision making (with express reference to the Council's "probity in planning" code :***
<http://www2.guildford.gov.uk/councilmeetings/documents/s11456/Part%205%20-%20Codes%20and%20Protocols.pdf>
Page 22
 - c. ***Also:***
 - i. ***Did the Council ask Davis Landscape Architects to produce the Garden Village proposal, or was it already prepared, and used in the bid?***
 - ii. ***Did Council officers just cut and paste the Council logo or were they more involved in it?***
 - iii. ***Who instructed them to employ the consultant, and did they know that Davis Landscape Architects also worked for Wisley Property Investments Ltd?***
 - iv. ***What other Wisley related documents have the Council worked on jointly or otherwise with consultants that are also advising Wisley Property Investments Ltd? "***
- 3.10 These Terms of Reference reflected the matters raised by Councillor Redpath that the Council wished VWV to look into.

- 3.11 As already stated, VWV interviewed Councillor John Redpath. He was given a chance to review and revise the statement that he gave prior to confirmation of its accuracy. VWV also spoke to Tracey Coleman, the then Director of Strategic Services, who subsequently provided VWV with a written statement reflecting her position and that of her Department prior to her departure from the Council.
- 3.12 VWV followed this up by seeking clarification and elucidation from the Council on various points, particularly from officers in the planning department.
- 3.13 VWV were also supplied with a considerable amount of background documentation by the Council when they started their investigation.
- 3.14 Subsequent to the conclusion of their first investigation and the publication of their report, VWV were asked to look onto two further matters by this committee, namely:
- *"Circumstances and process around the bid and an explanation of what happened, e.g., how did a letter from a developer get passed between Cllrs to become a submission from SCC? Why was a Savills document passed off as a GBC document? What was the discussion between officers about this and why wasn't it discussed with Cllrs? Why was the Bid submitted so late in the day, where was the awareness of the bid deadline? "*
 - *"The late notice to the O&S Chair of the Bid and the avoidance of scrutiny/waiving of call-in to meet the bid deadline and the late addition of the item to the Executive meeting agenda. What is the learning from this episode?"*

4. Findings of the Investigation

- 4.1 The full report of the investigation carried out by VWV is attached as Appendix 1 to this report. In the light of the additional points VWV were asked to investigate, they have produced an addendum to the report addressing these two additional matters
- 4.2 VWV's findings on the full investigation are set out in Section 5 of their report. Their findings on the 2 additional matters are set out in Section 5 of the addendum.
- 4.3 The Wisley Airfield Garden Village Bid document is attached as Appendix 2 of this report.
- 4.4 In summary, the findings on the full investigation as against the Terms of Reference set by the Council were as follows:
- a. ***"Did the Council ask Davis Landscape Associates ("DLA") to produce the Garden Village proposal, or was it already prepared, and used in the bid? "***
 - i. It was agreed at an early / initial meeting between the Council and Wisley airfield development promoters that Wisley Property Investments Ltd (WPIL) would lead on producing the draft bid document which would then be passed to the Council for

comment. It was not discussed who specifically within the WPIL team would produce it, just that WPIL would provide the resources to produce the document

- b. "Did Council officers just cut and paste the Council logo or were they more involved in it?"**
 - i. It was appropriate to include the Council logo on the back of the bid. Council officers on behalf of the Council were involved in its use. The process by which the bid was signed off and consequentially the logo was applied was also appropriate. The Council had considerable input into the document and it was not until the bid document was finalised by the Council that the logo could be attached.
- c. "Who instructed them to employ the consultant, and did they know that DLA also worked for WPIL? "**
 - i. WPIL instructed DLA to produce the document as it had been agreed that WPIL would lead on drafting the bid document.
 - ii. In terms of how and when agreement was reached that WPIL would lead on drafting the bid, it was agreed at the meeting on 19 October (referred to previously) that WPIL would lead in producing the document. It was not discussed who specifically within the WPIL team would produce it, just that WPIL would provide the resources to produce the document.
- d. "What other Wisley related documents have the Council worked on jointly or otherwise with consultants that are also advising WPIL?"**
 - i. Officers advised VWV that they were not aware of any (other) Wisley related documents worked on jointly with consultants that were advising WPIL other than those referred to in the VWV report and a S106 agreement entered into with WPIL as part of the planning process.
- e. "When was the document sent to the Council from DLA and to whom?"**
 - i. The final bid document was submitted on 9th November 2018, the deadline for submitting bids to Government. The final bid document as agreed by both parties was circulated on 9 November 2018 at 15:19 within the Council for approval.
- f. "Who sent it on to MHCLG and at what time was this?"**
 - i. It was submitted at approx. 15:50 on 9 November 2018 by the Planning Officer on behalf of the Council.
- g. "Who attached the Council logos and when? "**
 - i. The Council logos were inserted by DLA in finalising the document. This was a joint document agreed by both parties and it had been agreed that this would be done once the Council had signed the document off (which it had done).

- 4.5 The following points should also be noted:
- i. a local authority would not have all the information needed to make a bid such as this on its own. Delivery of the bid therefore had to be a collaboration between all parties;
 - ii. the bid process was not prescribed, but it was not possible to make a bid unless all parties work together as this is a voluntary

- iii. approach. The purpose of the bid was to increase the quality of the development within the garden village principles; and making the bid did not mean that successful bidders would get planning consent. A number of successful bid sites have failed during the local plan process or application stage.

4.6 In conclusion, VWV decided that the issues they were asked to look into did not raise issues that warranted further action by the Council.

4.7 In relation to the two further matters that VWV were asked to look into subsequent to their full investigation, these raised no matters of substance. VWV's findings on these two points are set out in the addendum.

5. Additional Matter

5.1 Given the nature of the findings of VWV, it was felt that the responses to the concerns raised could have been given earlier and in full. The Council had an appropriate and robust response to the concerns and could have made them.

5.2 Had this information been made public earlier, this may well have removed the (albeit misconceived) perception that there were substantive issues underpinning the production of the bid document arising from an inappropriate relationship between the Council and the promoters of the Wisley Garden Village.

6. Summary of Options

6.1 The Committee are asked to note the reports which set out the findings of the investigation carried out by VWV. The Committee are also invited to reflect upon the learning points contained in the investigation report and addendum and if they agree with VWV, consider how best they may be taken forward.

7. Conclusion

7.1 VWV concluded that the issues that they investigated did not require any further action to be taken by the Council. However there were learning points for the Council.

8. Background Papers

8.1 There are none. The investigation report of VWV is attached to this report as Appendix 1. The addendum also produced by VWV is Appendix 2.

9. Appendices

9.1 Appendix 1: Report of an investigation by VWV LLP appointed by the Monitoring Officer for Guildford Borough Council relating to the Garden Bid at the former Wisley Airfield.(July 2020)

- 9.2 Appendix 2: Addendum to the report of an investigation by VWV LLP appointed by the Monitoring Officer for Guildford Borough Council relating to the Garden Village at the former Wisley Airfield.(May 2021)

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Report of an investigation by VWV LLP appointed by the Monitoring Officer for Guildford Borough Council relating to the Garden Village at the former Wisley Airfield.

July 2020

NOTE: This is a revised version of the report, produced by VWV at the request of the Council in February 2021 with the names of Council officers removed / redacted.

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1 Executive Summary

- 1.1 Cllr John Redpath, a Councillor at Guildford Borough Council ("the Council") raised certain issues with the Council that we were asked to look into.
- 1.2 These issues related to the former Wisley airfield development and the bid to Government submitted jointly by the Council and the private sector partners.
- 1.3 The investigation was carried out by Mark Heath who is a consultant with Veale Wasbrough Vizards (VWV). VWV is a full service commercial law firm, with 82 Partners and over 350 lawyers, working across offices in Watford, London, Bristol and Birmingham. VWV have been providing legal advice to local authorities for over twenty years and have a national reputation for public sector property work, acting for both central and local government clients.
- 1.4 Mark Heath is a solicitor with over 30 years of service within the public sector. He was until December 2016 working at Southampton City Council where he was Solicitor to the Council and Monitoring Officer for 20 years. Subsequent to that he held the positions of Director of Place and subsequently Chief Operating Officer at Southampton. He is highly experienced in all aspects of local government law, particularly standards and all aspects of local authority governance and decision making.
- 1.5 In conclusion we did not consider that the issues raised by Cllr Redpath raised any issues that needed any further action. We do however think there is some learning for the Council.

2 Scope of Investigation and Timeline

- 2.1 We were formally engaged in November 2019 by Guildford Borough Council's ("the Council") former Monitoring Officer to look into a number of issues that had been raised by Cllr John Redpath with the Council.
- 2.2 We subsequently arranged to interview Cllr Redpath in early December 2019. Cllr Redpath raised various matters with us during this interview which we considered were outside the scope of our investigation as set by the Council.
- 2.3 As a consequence we sought clarification from the Council as to the scope of our investigation in the light of that interview with the former Monitoring officer on 12 December 2019.
- 2.4 We received that clarification on 14 February 2020 which resulted in the Council amending the scope of our investigation.
- 2.5 The (amended) scope of our investigation was as follows:
 - 2.5.1 To examine, through a review of correspondence and such interviews as the reviewer considers expedient and desirable, the alleged utilisation by the Council of plans authored by Davis Landscape Architects (consultants to Wisley Property Investments Ltd) as part of the Council's submission of an application to the secretary of state for support in achieving garden village status for the former Wisley Airfield, as described more fully in the report to the Executive of 30 October 2019 and to recommend whether to:
 - (a) take no further action; or
 - (b) offer specific guidance for future reference, or to adopt a change in practice
 - 2.5.2 To provide a general description of how a Council may act as a promotor/supporter of a Garden Village application, with a private sector land owner (including what sort of project agreements would be expected, and how the Council is both an executive and a regulatory decision maker (in the planning context), and how the law provides a framework for this decision making (with express reference to the Council's "probity in planning" code :

<http://www2.guildford.gov.uk/councilmeetings/documents/s11456/Part%205%20-%20Codes%20and%20Protocols.pdf> Page 22
 - 2.5.3 Also:
 - (a) Did the Council ask Davis Landscape Architects to produce the Garden Village proposal, or was it already prepared, and used in the bid?
 - (b) Did Council officers just cut and paste the Council logo or were they more involved in it?
 - (c) Who instructed them to employ the consultant, and did they know that Davis Landscape Architects also worked for Wisley Property Investments Ltd?
 - (d) What other Wisley related documents have the Council worked on jointly or otherwise with consultants that are also advising Wisley Property Investments Ltd?

3 Garden Villages, Planning Strategy and the Prospectus

3.1 Garden Villages

3.1.1 In recent years there has been a renewed interest in the idea of the Garden Cities, Town and Villages, and how the principles that underpin that idea can be used to inform the delivery of new communities. When planning for the supply of new homes local authorities are required by national policy to consider the Garden City approach, and many local authorities, developers and housing associations are exploring opportunities to address housing and growth needs through new communities at a range of scales.

3.1.2 A Garden City is defined as a town designed for industry and healthy living, of a size that makes possible a full measure of social life but not larger, surrounded by a permanent belt of rural land and the whole of the land is in public ownership or held in trust for the community.

3.1.3 Garden Villages are smaller projects of between 1,500 – 10,000 homes whilst Garden Towns have over 10,000 homes.

3.1.4 The principles of a Garden City/Town/Village in general encompass:

- strong vision, leadership and community engagement;
- land value capture for the benefit of the community;
- community ownership of land;
- mixed-tenure homes and housing types that are affordable; and
- employment opportunities, green space, strong leisure and retail facilities and integrated and accessible transport system.

3.1.5 The government sees the delivery of Garden Villages, Towns and Cities as a means of tackling the housing shortage. In 2017, the government allocated funding to 10 garden towns and 14 garden villages across England to help fast track those projects.

3.1.6 The National Planning Policy Framework highlights that new settlements can sometimes be best achieved by following those principles.

3.1.7 In August 2018, the relevant Government Department, the Ministry of Housing, Communities and Local Government ("MHCLG") issued a Prospectus:

https://www.guildford.gov.uk/media/28911/MHCLG-Garden-Communities-Prospectus/pdf/MHCLG_Garden_Communities_Prospectus.pdf?m=63677636258767000

3.1.8 In summary, this sought proposals for Garden Communities. Those that were successful would receive a bespoke package of Government assistance to deliver their proposal.

3.1.9 This Prospectus is addressed in more detail below.

3.2 Planning Strategy

3.2.1 The position of Garden Communities within planning strategy sits at a national level.

- 3.2.2 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally-prepared plans for housing and other development can be produced.
- 3.2.3 The first NPPF was issued by the Department for Communities and Local Government in March 2012. Paragraph 52 stated

"The supply of new homes can sometimes be best achieved through planning for larger scale development, such as new settlements or extensions to existing villages and towns that follow the principles of Garden Cities.

Working with the support of their communities, local planning authorities should consider whether such opportunities provide the best way of achieving sustainable development. In doing so, they should consider whether it is appropriate to establish Green Belt around or adjoining any such new development."

<https://www.gov.uk/government/publications/national-planning-policy-framework-2>

- 3.2.4 The NPPF was revised in February 2019, and now says this on this issue (paragraph 72):

"The supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities. Working with the support of their communities, and with other authorities if appropriate, strategic policy-making authorities should identify suitable locations for such development where this can help to meet identified needs in a sustainable way. In doing so, they should:

a) consider the opportunities presented by existing or planned investment in infrastructure, the area's economic potential and the scope for net environmental gains;

b) ensure that their size and location will support a sustainable community, with sufficient access to services and employment opportunities within the development itself (without expecting an unrealistic level of self-containment), or in larger towns to which there is good access;

c) set clear expectations for the quality of the development and how this can be maintained (such as by following Garden City principles), and ensure that a variety of homes to meet the needs of different groups in the community will be provided;

d) make a realistic assessment of likely rates of delivery, given the lead-in times for large scale sites, and identify opportunities for supporting rapid implementation (such as through joint ventures or locally-led development corporations)³⁵; and

e) consider whether it is appropriate to establish Green Belt around or adjoining new developments of significant size."

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf

3.3 The Prospectus

- 3.3.1 In August 2018, the relevant Government Department, the Ministry of Housing, Communities and Local Government ("MHCLG") issued a Prospectus:

https://www.guildford.gov.uk/media/28911/MHCLG-Garden-Communities-Prospectus/pdf/MHCLG_Garden_Communities_Prospectus.pdf?m=63677636258767000

- 3.3.2 The Prospectus set out a process. This process was designed to seek proposals from local authorities and private sector partners (such as developers or land owners) or directly from private sector partners which had to then be expressly supported by the local authority.
- 3.3.3 Those that were successful would receive a bespoke package of Government assistance to deliver their Garden Community proposal.
- 3.3.4 The contents of the Prospectus are important to understanding and analysing this issue. Amongst other things it said:
- (a) the Government ("HMG") encouraged local authorities and their private sector partners to come forward and set out how HMG could assist them in delivering their vision for new garden communities (foreword);
 - (b) the prospectus did not prescribe a single template for a garden community. Each garden community HMG chose to assist would have its own clear and distinct sense of identity(para 2);
 - (c) all proposals should have the backing of the local authorities in which they were situated, including the county council in two-tier areas (para 11);
 - (d) proposals should set out how the local community was being, or would be, engaged and involved at an early stage, and strategies for continued community engagement and involvement. HMG was clear that local communities – both current and future residents – must have a meaningful say in developing the proposal from design to delivery(para 12);
 - (e) HMG did not expect to see a detailed delivery plan at this stage, but did expect to see credible outline proposals which demonstrated consideration of:
 - (i) delivery models and timescales – including the strength of existing commitments and partnerships, such as with master developers and land owners;
 - (ii) infrastructure requirements – including access to road, rail, utility considerations (including high-speed broadband, flood, water supply, sewerage and waste), and plans for health, education, and other core social infrastructure;
 - (iii) opportunities to capture land value – including through land acquisition and assembly, to help fund the long-term delivery and management of the garden community; and
 - (iv) access to finance and private sector investment – including through direct investment, developer contributions, patient long-term finance and other opportunities attractive to investors(para 15).
 - (f) HMG stated that delivering a new garden community required long-term strategic thinking and robust delivery arrangements. There were many forms that this could take – from arrangements such as joint venture companies, to development corporations(para 21); and

- (g) proposals were invited from local authorities and private sector partners (such as master developers or land owners). Proposals submitted by private sector partners had to be expressly supported by the local authority. HMG particularly welcomed joint proposals from one or more local authorities, as well as proposals which demonstrated support from developers and / or landowners (para 28 and 29).

4 Evidence gathered

- 4.1 We interviewed Cllr John Redpath. He was given a chance to review and revise his statement prior to confirmation of its accuracy.
- 4.2 As already mentioned, we clarified the scope of our investigation with the Council after this as Cllr Redpath mentioned matters that were not within the initial scope we were set. That scope was subsequently amended by the Council to address the issues that Cllr Redpath raised that we were instructed to investigate. Our focus, in so far as what Cllr Redpath told us, has therefore been in relation to the matters within the Scope as set out in para 2.5 of this report.
- 4.3 We would draw out the following general points from what Cllr Redpath said to us about his concerns:
- 4.3.1 he had been drawn into the issue from early January (2019) when he first considered running as a Borough Councillor. There was much concern, mainly from those opposed to any development of the Wisley site, with regard to the role of the Council and its role in relation to the bid document and relationship with other partners;
 - 4.3.2 some of the matters raised with him he decided were clearly without merit and he did not intend nor wish to raise or pursue them;
 - 4.3.3 a previous investigation had been carried out but only an executive summary of the findings published.
 - 4.3.4 the Councillor understood the reasons for the bid and the desire to make it successful; and
 - 4.3.5 it was the concerns around the bid document itself and how close the Council at least appeared to have become to the partners involved in that still needed answering as that had raised concerns.
- 4.4 We also spoke with [a Planning Officer] who subsequently supplied us with a written statement reflecting her position and that of her Department prior to her departure from the Council.
- 4.5 We followed this up by seeking clarification and elucidation from the Council on various points, particularly from officers in the planning department. .
- 4.6 We were also supplied with background documentation by the Council when we started our investigation.

5 Assessment and Analysis

5.1 This matter arises from concerns expressed by Cllr John Redpath. There is clearly local opposition to the substantive proposal of this development at Wisley. That opposition has amongst other things picked up on the Garden Village bid document and raised issues as to its production and the role of the Council in that.

5.2 We have below set out the issues that we were tasked with addressing by the Council and our responses to them: .

5.2.1 **A general description of how a Council may act as a promotor/supporter of a Garden Village application, with a private sector land owner (including what sort of project agreements would be expected, and how the Council is both an executive and a regulatory decision maker (in the planning context), and how the law provides a framework for this decision making (with express reference to the Council's "probity in planning" code:**

<http://www2.guildford.gov.uk/councilmeetings/documents/s11456/Part%205%20-%20Codes%20and%20Protocols.pdf> page 22

5.2.2 Response:

- (a) In para 3.3.4 of this report we have set out some key points / extracts from MHCLG's Garden Communities prospectus (Aug 2018) regarding the process of bidding for garden community status. This stresses :
 - (i) the role of local planning authorities in leading /supporting this process;
 - (ii) that there is no one size fits all approach and no common template to follow;
 - (iii) it was for local authorities and their private sector partners to come forward and tell Government they can assist;
 - (iv) local authority support is needed either to a private sector bid or as part of a joint bid; and
 - (v) there are many examples across the country of bids submitted by local authorities.
- (b) At the point of submission of the bid, the Government did not expect to see a detailed delivery plan but credible outline proposals demonstrating consideration of the key issues. In due course, legal agreements between the Council, the private sector partners would be needed. The sort of legal agreements that might be needed include:
 - (i) land promotion agreement/option - tying in the landowner (if not the council) to deliver land at an agreed price. Usually capable of being drawn down in tranches by the promoter and immediately sub-sold or directly transferred to the developer;
 - (ii) s278 Highways Act 1980 agreements (the legal mechanism required to carry out highway alterations on the existing network);

Appendix 1

- (iii) s38 Highways Act 1980 agreements (agreements to secure new road adoption by the highway authority);
- (iv) S106 Town and Country Planning Act 1980 (these agreements contain planning obligations, these are private agreements made between local authorities and developers and can be attached to a planning permission to make acceptable development which would otherwise be unacceptable in planning terms. They are often focused on site specific mitigation of the impact of development along with highway contributions and the Community Infrastructure Levy);
- (v) depending on the risk exposure of the promoter, there may also already be development contracts in place with developers so that the promoter knows it can get the early phases out of the way. There may be separate contracts in place with Registered Providers for affordable housing and specialist uses like schools and nurseries. Some of these might be contracts with other public sector bodies like the county council. It would depend how much risk and/or proof for funding the development needed to demonstrate to enable progression;
- (vi) there may need to be a suite of documents dealing with one or more CPOs on top of the documents above if all the landowners are not on board;
- (vii) potentially, depending upon the site, there may be additional agreements to do with utilities and diversion of assets that are in the way. This could include highways improvements (agreements with Highways England) and rail improvements or works at rail crossings (Network Rail agreements);
- (viii) the development of a Garden Village is often underpinned by a masterplan which can be adopted as part of the local plan;
- (ix) some have looked at the European model. In this the Council acquires the village site and puts in the infrastructure (main/side roads & utilities), selling off the development plots (which may be large) with the developer then putting in the estate roads etc. That arrangement requires some sort of framework agreement underpinned by a s106 agreement backing up recovery of costs for infrastructure. If a developer wanted a site, they would then need to go through the Council to acquire it and sign up to the framework agreement;
- (x) some promoters have attempted to tie a Garden Community together with a s106 agreements. However, the disadvantage of that is that each developer negotiates their own s106 agreements with the Council who are trying to hold the line on consistency. A major issue comes when one developer needs to provide a school, another retail, another open space and so forth each to make the other's development acceptable in planning terms;
- (xi) in summary, as a minimum you would want: (1) the landowners tied up with option agreements or a viable plan for CPO, (2) housing demand in the housing need assessment, (3) some evidence of

demand for this site from developers if not early phases already subject to development agreements. That means that the garden Village could progress upon grant of planning.

- (c) The local planning authority ("LPA") is a term that refers to the planning department of the district or borough council and the functions that flow from that. It is not however legally a separate entity from the local authority concerned, but the term does reflect the fact that the function must be exercised by all - officers and members - within the constraints imposed by the law and policy.
- (d) The National Planning Policy Framework (NPPF) defines an LPA as, 'the public authority whose duty it is to carry out specific planning functions for a particular area. All references to local planning authority apply to the district council, London borough council, county council, Broads Authority, National Park Authority and the Greater London Authority, to the extent appropriate to their responsibilities.'
- (e) This also then reflect the functional and hence decision making framework for officers and members of the LPA. Very broadly, those responsibilities include:
 - (i) producing a local plan: This is a framework for the future development of an area defining strategic policies, the framework for neighbourhood plans, land allocations, infrastructure requirements housing needs, requirements for safeguarding the environment, measures for adapting to climate change and so on. Local plans are also the starting-point for considering whether planning applications should be approved. The framework states that if a plan is absent, silent or out of date, permission should be granted, unless there are significant and demonstrable reasons not to grant permission;
 - (ii) determining planning applications. Decisions about straight-forward applications will be made under powers delegated to planning officers. More significant or contentious applications will be decided by a planning committee, made up of local councillors. In determining planning applications the LPA will consult with the local community, statutory consultees and non-statutory consultees;
 - (iii) enforcement: Acting proportionately in response to suspected breaches of planning control; and
 - (iv) supporting neighbourhood planning.
- (f) In terms of how the Council is both an executive and a regulatory decision maker (in the planning context), and how the law provides a framework for this decision making, the LGA's Guidance on probity in planning is helpful and we have quoted a few extracts below:
 - (i) *"Planning has a positive and proactive role to play at the heart of local government. It helps councils to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs to achieve sustainable development. The planning system works best when officers and councillors involved in planning*

understand their roles and responsibilities, and the context and constraints in which they operate. Planning decisions involve balancing many competing interests. In doing this, decision makers need an ethos of decision-making in the wider public interest on what can be controversial proposals".

- (ii) *"Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework".*
 - (iii) *"Decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and decision notices. Nevertheless, it is important that the decision-making process is open and transparent".*
 - (iv) *"Whilst the determination of a planning application is not a 'quasi-judicial' process (unlike, say, certain licensing functions carried out by the local authority), it is a formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. All involved should remember the possibility that an aggrieved party may seek a Judicial Review and/or complain to the Ombudsman on grounds of maladministration or a breach of the authority's code".*
- (g) in brief the division of roles in relation to planning within a local authority is this. The Council's Executive is responsible leading on policy, but Full Council adopts the Local Plan. The non-executive planning committee will determine some of the planning applications, with officers generally having delegated authority to determine less controversial matters. Members of the Planning Committee, when determining planning applications, must have regard to the Council's policies contained in the NPPF, Development plan, NPPGs and material considerations such as Supplementary Planning Guidance adopted by the Council together with other material considerations. Applications must be determined in accordance with the Local Plan unless material considerations indicate otherwise;
- (h) in general terms, to ensure the highest standards of probity throughout the process:
- (i) the Council's Code of Conduct for Members must be complied with throughout the decision making process, which includes mandatory requirements with regard to interests;
 - (ii) members of the planning committee have to retain a neutral position on any application for the very fact that they are a part of the decision making process, and cannot be seen to side with either the applicant or the objector/s, prior to the start of the meeting to determine the application, and before all the relevant facts and other material considerations are known. This ensures confidence in the Committee (Council) is maintained and also serves to minimise the prospect of non-planning related matters affecting the judgment of Committee Members;

- (iii) members of the committee need to be alert to the need to declare interests, some of which may debar them from participating in the debate and vote on a certain matter;
 - (iv) lobbying (perceived or actual) of members of the planning committee is a matter that members must be mindful of; and
 - (v) it is important that these and other matters are drawn to the committee members and that they are reminded of them on a regular basis. Many will also apply to all members as they may substitute for a committee member or attend planning committee to speak on an application.
- (i) to assist members in achieving that high standard of probity, it is recommended good practice that Councils provide their members with guidance on this issue. The Council has done this by adopting a "planning" code: -
<http://www2.guildford.gov.uk/councilmeetings/documents/s11456/Part%205%20-%20Codes%20and%20Protocols>
 - (j) we also noted that members have a Councillor's planning handbook prepared for them that addresses this and a broader range of issues:-
<https://www2.guildford.gov.uk/councilmeetings/ecsddisplayclassic.aspx?name=sd288&id=288&rpId=0&path=13341>
 - (k) we felt both were appropriate and clear and set out the limitations of members role (in the LPA process) robustly;
 - (l) in relation to the Wisley Garden Village, it was important to note that the making of the bid / submission did NOT mean that successful bidders would as a consequence get planning consent; and
 - (m) these arrangements relating to probity including the documents are crucial to that decision making process to ensure that the Council's LPA functions are not prejudiced, as will be the advice from the Monitoring Officer.

5.2.3 Did the Council ask Davis Landscape Associates ("DLA") to produce the Garden Village proposal, or was it already prepared, and used in the bid?

5.2.4 Response:

- (a) It was agreed at an early / initial meeting between the Council and Wisley airfield development promoters that Wisley Property Investments Ltd (WPIL) would lead on producing the draft bid document which would then be passed to the Council for comment.
- (b) In terms of that meeting, [a Planning Officer] was invited to the meeting verbally on the morning of the meeting by [the then Director]. We cannot confirm when the meeting was scheduled but the meeting was held on 19 October 2018. There were no agreed minutes arising from the meeting. In attendance were:
 - Charlie Collins (Savills)
 - Ruth Bryan (Savills)
 - Mike Murray (Causeway Land)

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Appendix 1

- Cllr Paul Spooner (Leader and Portfolio Holder for Planning)
- Cllr Matt Furniss (Deputy Leader)
- [a Planning Officer]
- [a Planning Officer]

5.2.5 **Did Council officers just cut and paste the Council logo or were they more involved in it?**

5.2.6 Response:

- (a) There were two rounds of comments provided by the Council in agreeing the final form of the bid document. The contents of the bid document were therefore agreed with the Council and therefore entirely appropriate to include the Council logo on the back of it.
- (b) Savills circulated the first draft document on 31 October 2018. This email included the following people:
 - From - Ruth Bryan (Savills)
 - To - [a Planning Officer]
 - Cc - Charlie Collins (Savills), Mike Murray (Causeway Land)
- (c) [A Planning Officer] circulated this internally on 1 November 2018 to Council officers asking for comments.
- (d) [A Planning Officer] replied with some comments on 2 November to feed into [a Planning Officer's] comments – sent 2 November (see below).
- (e) [a Planning Officer] sent back the Council's comments to the draft document on 2 November 2018 using the same email circulation as the draft document was sent to.
- (f) Charlie Collins circulated a further round of the document incorporating the Council's initial comments on 5 November 2018. This email was sent to [two Planning Officers], cc'ed to Ruth Bryan.
- (g) An Email was sent from [a Planning Officer] to Charlie Collins on 5 November confirming that the Council would not share that version with Cllr Paul Spooner but would await the version with graphics included. This email also confirmed that '[a Planning Officer] *is happy for the suggested changes and has no further comments.*'
- (h) A further draft of the document was recirculated now with graphics. This was sent by Charlie Collins on 7 November 2018 and sent to [2 Planning Officers]. CC'ed Ruth Bryan, Mike Davies (DLA) and Mike Murray.
- (i) A reply was sent on 7 November from [a Planning Officer] to Charlie Collins to confirm that the document had been sent to Cllr Paul Spooner for review and that [a Planning Officer] would also review the document. [A Planning Officer] then sent an email on 7 November 2018 to Charlie Collins, cc'ing [several Planning Officers], Mike Davies (DLA), Ruth Bryan (Savills) and Mike Murray (Causeway Land) with further comments on the latest draft saying: '*Please find below officer's further/repeated comments. There will be a few*

more tomorrow morning (I will send first thing) but I thought I would send these in the meantime.'

- (j) Replies to all on the circulation list were received from Charlie Collins on 7 November 2018 with a few questions/comments, from Mike Murray on 8 November 2018 with some comments on Charlie Collin's questions/comments, from [a Planning Officer] on 8 November 2018 confirming she was happy with Mike Murray's comments with one suggested change. Email also contained the additional comments that [a Planning Officer] promised to send in her email on 7 Nov – to the same circulation list but also cc [a Planning Officer].
- (k) [A Planning Officer] emailed on 8 November confirming that Cllr Paul Spooner had no comments and added one comment by Cllr Matt Furniss – same circulation list as previous email.
- (l) [A Planning Officer] emailed on 9 November 2018 with a few final comments – same circulation as previous email.
- (m) An email was then received from Nicola Preen (DLA) on 9 November 2018 with the final document for submission. This was sent to Ruth Bryan, cc [a Planning Officer], Mike Davies, Charlie Collins and Mike Murray.

5.3 Who instructed them to employ the consultant, and did they know that DLA also worked for WPIL?

5.4 Response:

- 5.4.1 WPIL instructed DLA to produce the document as it had been agreed that WPIL would lead on drafting the bid document.
- 5.4.2 In terms of how and when agreement was reached that WPIL would lead on drafting the bid, it was agreed at the meeting on 19 October (referred to previously) that WPIL would lead in producing the document. It was not discussed who specifically within the WPIL team would produce it, just that they would provide the resources to produce the document.

5.5 What other Wisley related documents have the Council worked on jointly or otherwise with consultants that are also advising WPIL?

5.6 Response:

- 5.6.1 Officers have responded to us that they are not aware of any (other) Wisley related documents worked on jointly with consultants that are advising WPIL other than those referred to in this report and a S106 agreement entered into with WPIL as part of the planning process.

5.7 In addition, these points warrant addressing:

- 5.7.1 The bid was submitted on 9th November 2018, the deadline for submitting bids to Government. The document is time stamped 15:13:40 on 9/11/18:

(a) When was the document sent to the Council from DLA to and to whom?

Response: The final bid document was submitted on 9th November 2018, the deadline for submitting bids to Government. The final bid document as agreed by both parties was circulated on 9 November 2018 at 15:19. Those who saw the bid are as listed above, but only [a Planning Officer] was sent it

Appendix 1

at that point. (This was as it was sent by an individual who had not been involved in the various emails setting out those who agreed the final wording (also see above)).

(b) **Who sent it on to MHCLG and at what time was this?**

Response: It was submitted at approx. 15:50 on 9 November 2018. [A Planning Officer] submitted the bid on behalf of the Council. The bid was submitted online via the Delta Portal but this was followed up with an email attaching the supplementary evidence that supported the bid (i.e. the bid document and letters of support from SCC, LEP and all three landowners). The email was sent to 'gardencommunities@communities.gsi.gov.uk' and cc'ed to: Cllr Paul Spooner [and Council Officers].

(c) **Who attached the Council logos and when?**

Response: The Council logos were inserted by DLA in finalising the document. This was a joint document agreed by both parties and it had been agreed that this would be done once the Council had signed the document off (which it had done). This was as agreed at the meeting on 19 October 2018 that the Council would submit the bid in their name, with the support of landowners, rather than have a bid submitted by WPIL with Council support. As part of the meeting it was agreed that both logo's would be put on the back of the bid document. DLA in compiling the document put everyone's logo on the back page. In [a Planning Officer's] email on 7 November (distribution list identified above), one of the comments was:

'Back cover

Can you make [the Council] logo bigger (as the lead for the submission) and the others smaller'

- 5.8 Finally our attention was drawn by Council officers to an incident where the developer wanted to include within the bid document during its drafting phase a reference to the fact that the site could be expanded in the future. Officers responded for the Council saying that the Council could not and would not support that and wanted the reference removed. It would have been contrary to the local plan. The next iteration of the document came back with this reference still in it, and the officers repeated the Council's position only more strongly and the reference was subsequently removed.
- 5.9 Our attention was also drawn to the fact that there was a very short period of time to make the bid. At the same time, there was consultation on the Local Plan which made it a very busy period.
- 5.10 The following points should also be noted:
- 5.10.1 a local authority would not have all the information needed to make a bid such as this on its own. Delivery of the bid therefore had to be a collaboration between all parties;
 - 5.10.2 the bid process was not prescribed, but it was not possible to make a bid unless all parties work together as this is a voluntary approach. The purpose of the bid was to increase the quality of the development within the garden village principles; and
 - 5.10.3 making the bid did not mean that successful bidders would get planning consent. A number of successful bid sites have failed during the local plan process or application stage.

- 5.11 In conclusion, taking account of the issues we were asked to consider, we have investigated them , and considered the responses that we received, seeking clarification where necessary. We consider that those responses are sound and appropriate.
- 5.12 Accordingly we do not consider that the issues we were asked to look into raise issues that warrant further action by the Council.

6 Other Points

- 6.1 Given the nature of the information that we have set out in this report, we do feel that much of this could have been made public if not immediately, certainly later as and when concerns were raised.
- 6.2 Doing so may well have removed the (albeit misconceived) perception that there were substantive issues underpinning the production of the bid document arising from an inappropriate relationship between the Council and the promoters of the Wisley Garden Village.

7 Conclusion and Finding

- 7.1 We have concluded that the issues raised do not require any further action to be taken by the Council.

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Addendum to the report of an investigation by VWV LLP appointed by the Monitoring Officer for Guildford Borough Council relating to the Garden Village at the former Wisley Airfield.

May 2021

NOTE: This is a revised version of the report, produced by VWV at the request of the Council with the names of Council officers removed / redacted.

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1 Introduction

- 1.1 Following on from the report that we produced in July 2020, " The report of an investigation by VWV LLP appointed by the Monitoring Officer for Guildford Borough Council relating to the Garden Village at the former Wisley Airfield", (the "First Report"), we were asked to look into additional matters by Guildford Borough Council ("the Council") for the Overview and Scrutiny Committee.
- 1.2 These issues again related to the former Wisley airfield development and the bid to Government submitted jointly by the Council and the private sector partners.
- 1.3 This further investigation was carried out by Mark Heath who is a consultant with Veale Wasbrough Vizards (VWV). VWV is a full service commercial law firm, with 82 Partners and over 350 lawyers, working across offices in Watford, London, Bristol and Birmingham. VWV have been providing legal advice to local authorities for over twenty years and have a national reputation for public sector property work, acting for both central and local government clients.
- 1.4 Mark Heath is a solicitor with over 30 years of service within the public sector. He was until December 2016 working at Southampton City Council where he was Solicitor to the Council and Monitoring Officer for 20 years. Subsequent to that he held the positions of Director of Place and subsequently Chief Operating Officer at Southampton. He is highly experienced in all aspects of local government law, particularly standards and all aspects of local authority governance and decision making.
- 1.5 This report (the "Second Report") contains our findings in relation to these further matters.

2 **Scope of Further Investigation**

2.1 We were asked to investigate two further matters, namely:

2.1.1 *"Circumstances and process around the bid and an explanation of what happened, e.g., how did a letter from a developer get passed between Cllrs to become a submission from SCC? Why was a Savills document passed off as a GBC document? What was the discussion between officers about this and why wasn't it discussed with Cllrs? Why was the Bid submitted so late in the day, where was the awareness of the bid deadline? "*

2.1.2 *"The late notice to the O&S Chair of the Bid and the avoidance of scrutiny/waiving of call-in to meet the bid deadline and the late addition of the item to the Executive meeting agenda. What is the learning from this episode?"*

2.2 In addressing these matters in this Report, we have split them into two categories, namely "Further Bid Issues" and "Call-in Issues"

3 Decision making - Roles & Responsibilities

- 3.1 Of fundamental significance to this matter is the status, nature of and effect of the Executive's decision relating to the bid / submission by the Council and partners to MHCLG for Garden Village status.
- 3.2 In August 2018 , the relevant Government Department, the Ministry of Housing, Communities and Local Government ("MHCLG") issued a Prospectus:
- https://www.guildford.gov.uk/media/28911/MHCLG-Garden-Communities-Prospectus/pdf/MHCLG_Garden_Communities_Prospectus.pdf?m=636776362587670000
- 3.3 In summary, this sought proposals for Garden Communities. Those that were successful in making those would receive a bespoke package of Government assistance to deliver their proposal should those proposals subsequently receive planning permission, local plan approval etc.
- 3.4 The Garden Village bidding process was entirely separate from the planning process and any planning decisions. Making a bid for Garden Village status meant nothing when it came to the planning decisions. Any perception that making or being successful with the bid reflected a pre-determination of the planning decision, shortened the process or made the approval more likely was incorrect. No planning Inspector would take into account the existence of the additional resources through the Garden Village bid process as a material or relevant planning consideration.
- 3.5 In terms of decision making, decisions on the bid are clearly executive functions. Planning decisions are non-executive (planning committee / Full Council).
- 3.6 Council's that bid for extra capacity / support still had to make planning decisions through their planning committee / Full Council as to the merits of the matter.
- 3.7 Some councils made successful bids for support through the Garden Village bidding process to MHCLG but the proposal did not get approval through the due planning processes at those Councils. [e.g. Dissington in Northumberland].
- 3.8 Put simply, there was no legal / decision making link between the Garden Village bid process which fell to the executive and any planning decision made or to be made by the non-executive decision makers of the Council.
- 3.9 There was no relationship between making the bid and the decision(s) on planning. Making the bid gave no advantage to the planning decision, nor did it predetermine it in any way.
- 3.10 Whether this conflation of the two decisions/issues is a misunderstanding or a deliberate attempt to suggest issues where there are none, this lies at the heart of the issues raised over this matter.

4 **Further Evidence Gathered**

- 4.1 In respect our further investigatory work, we interviewed ex Cllr Reeves and we also spoke to planning officers and sought further documentation from them.

5 Assessment and Analysis

5.1 We were asked to investigate two further matters, namely:

5.1.1 *"Circumstances and process around the bid and an explanation of what happened, e.g., how did a letter from a developer get passed between Cllrs to become a submission from SCC? Why was a Savills document passed off as a GBC document? What was the discussion between officers about this and why wasn't it discussed with Cllrs? Why was the Bid submitted so late in the day, where was the awareness of the bid deadline? "*

5.1.2 *"The late notice to the O&S Chair of the Bid and the avoidance of scrutiny/waiving of call-in to meet the bid deadline and the late addition of the item to the Executive meeting agenda. What is the learning from this episode?"*

5.2 In addressing these matters in this Report, we have split them into two categories, namely "Further Bid Issues" and "Call-in Issues"

5.3 Further Bid Issues

5.3.1 In Section 5 of our First Report we addressed in detail the circumstances and process behind and underpinning the bid. We have also discussed at length in the same section of our First Report the chronology, status of the document, control by the Council of that document and branding of the Bid.

5.3.2 The reference to the letter being circulated was a letter drafted by Savills seeking support for the bid from the LEP and from Surrey County Council. This support was expressly necessary as set out in the prospectus issued by MHCLG.

5.3.3 The prospectus says at para 11:

(a) *All proposals should have the backing of the local authorities in which they are situated, including the county council in two-tier areas. We are particularly interested in proposals which demonstrate collaboration across local authority boundaries.*

(b) *To ensure that the potential local growth benefits have been considered, it will be desirable for proposals to have the support of the Local Enterprise Partnership, where the area has one.*

5.3.4 The drafting of the letter by Savills was in no way unusual. Bodies working in partnership with or for Councils and indeed other parties prepare draft letters or other documents for their partners / clients every day. The clients will then review and determine if they are happy with the content / style. They may or may not amend them. They may or may not send them. If they use such a draft, amended or not, it is then their letter.

5.3.5 It is also understood that the then Deputy Leader at the Council took the draft letter to Surrey CC where they were also a councillor. We can see nothing wrong in that at all either. The carriage of a draft letter by a member of the Council from the Council to another Council of which they were a member raises no issues. Dual-hatted members are common place and not an issue. Bodies working in partnership or for Councils and indeed other parties prepare draft letter or other documents for their partners / clients every day. Although a draft letter was supplied it was a matter for Surrey CC to

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decide whether to support or not and if so whether to send it amended or not. It was ultimately Surrey's letter.

- 5.3.6 In terms of the timeframe and late submission, as our First Report noted, there was a very short period of time to make the bid. At the same time, there was consultation on the Local Plan which made it a very busy period for the planning dept. There were undoubtedly significant resource pressures on the officers to deliver the bid and as such this resulted in a report being submitted to the decision makers later than perhaps might have been ideal. This is not however unusual, and there are processes for dealing with such matters. Capacity in the Corporate Programmes team at the Council has since been significantly bolstered and they have, and will continue to, submit bids on behalf of the Council – most recently a successful bid to pilot the Government's proposals for Local Design Codes.

5.4 Call In Issues

- 5.4.1 The report that went to the Executive on 30 October states:

<http://www2.guildford.gov.uk/councilmeetings/documents/b2985/Item%20of%20Urgent%20Business%2030th-Oct-2018%2019.00%20Executive.pdf?T=9>

"7.2 In accordance with Overview and Scrutiny Procedure Rule 16 (h), the Managing Director has designated this matter to be urgent and, subject to the formal agreement of the Executive and the Chairman of the Overview and Scrutiny Committee, shall not be subject to the call-in procedure. The Chairman of the Overview and Scrutiny Committee has already given her formal agreement.

7.3 This means that, subject to the Executive's agreement, the decision can be implemented immediately."

- 5.4.2 Although Councillor Reeves had already given her formal agreement on the day before this meeting (29th October), she indicated at the meeting that she had felt that she had been put in an invidious position bearing in mind that the Prospectus had been published by MHCLG on 15 August 2018 and this matter had been only been published as an item of urgent business on the day before the meeting.
- 5.4.3 Councillor Reeves indicated that she had a number of questions in respect of the circumstances surrounding the consideration of this matter which, in the interests of openness and transparency, ought to be considered at the next meeting of the Corporate Governance and Standards Committee.

- 5.4.4 The minute states:

<http://www2.guildford.gov.uk/councilmeetings/documents/g747/Printed%20minutes%2030th-Oct-2018%2019.00%20Executive.pdf?T=1>

"Having considered the report, the Executive RESOLVED:

(1) That the preparation and submission of a Garden Village Bid for Wisley Airfield to the Ministry of Housing, Communities and Local Government be endorsed.

(2) That the Director of Planning and Regeneration be authorised to finalise and submit the bid following consultation with the Leader of the Council and the Director of Finance.

(3) That, in accordance with Overview and Scrutiny Procedure Rule 16 (h), the call-in procedure in respect of this decision, be waived.

Reasons:

A successful bid could secure important capacity funding and cross government support allowing the delivery of the Wisley Airfield allocation and wider Council infrastructure and sustainable transport proposals.

The waiving of the call-in procedure will enable the decision to be implemented immediately to ensure that any bid may be submitted by the 9 November 2018 deadline

Note: *By reason of the special circumstances described below, the chairman considered that this item should be dealt with at this meeting as a matter of urgency pursuant to Section 100B 4 (b) of the Local Government Act 1972.*

Special Circumstances: *This matter required a decision by the Executive to enable a bid to be submitted by the deadline of 9 November 2018."*

- 5.4.5 The process by which the Council undertakes and manages call ins , as set out in the Constitution is lawful and reflects general practice across councils.
- 5.4.6 Ex-Cllr Caroline Reeves at the material time was a GBC Cllr, the Leader of the Liberal-Democrat Group and Chair of the Overview and Scrutiny Committee.
- 5.4.7 Ex-Cllr Reeve stressed the background to us, namely that the decision related to a bid to central government (MHCLG) and in bidding, Councils and their private sector partners were invited to come forward and tell Government how they could support the bidders in delivering their vision for new garden communities.
- 5.4.8 The whole rationale underpinning the basis for the executive decision to make the bid was to increase the quality of the development. If successful, the funding would benefit the Council to assist with things such as early delivery of infrastructure and in gaining professional design help.
- 5.4.9 Crucially, making the submission / bid to MHCLG did not mean that successful bidders would get planning consent. A number of successful MHCLG bid sites failed during the local plan process or application stage.
- 5.4.10 Ex-Cllr Reeve further explained that what the Executive were doing was bidding for extra resources / capacity / expertise to assist the Council's hard pressed planning dept with the delivery of the Garden Village to the highest standards, to increase the quality of the development BUT it was not a decision about approving etc that the development went ahead. That was separate. This did not pre-empt it, it did not predetermine it in anyway and as history has shown there were many who successfully submitted similar bids but who did not progress their garden village proposals as the necessary /appropriate planning decisions whether at local plan or application stage failed to gain support.
- 5.4.11 So in conclusion ex-Cllr Reeve told us that the decision she was presented with was - did the Council seek to bring in extra capacity, skills and expertise so that if the garden village did proceed, the Council had the very best resources they could have to deliver the best development they could - or not. And it was on that basis that ex-Cllr Reeve decided not to call the matter in.

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- 5.4.12 It should be noted that on 29 October, the day that she made her decision to waive call-in, ex-Cllr Reeve also wrote to [a Democratic Services Officer] recording her decision in the following terms:

"My difficulty with this particular situation is that it's a very contentious site which doesn't have borough wide support. There will be those who wish to challenge and would like a call-in.

But reading the document again it says clearly that it doesn't guarantee planning permission and in theory the extra funding could produce a better quality site which overcomes the difficulties with access and transport. And the Inspector left it in the Local Plan, much to the irritation of some.

On that basis I am happy to waive call-in"

- 5.4.13 As already stated, ex-Cllr Caroline Reeves indicated that she had a number of questions in respect of the circumstances surrounding the consideration of this matter. She submitted these questions in an email dated 4 November 2018 to the Managing Director, the Chairman of this Committee, the Leader of the Council, and the Monitoring Officer. A response to the questions was circulated by the Managing Director in an email to all councillors dated 21 November 2018. Those questions and the answers given are set out below:

"Questions raised by Councillor Caroline Reeves:

1: When did the Executive and Council officers know the matter would go to the Executive for decision? Why wasn't it on the Forward Plan - which 'sets out details of the various decisions that the Executive and full Council are likely to take over the next 12 months in so far as they are known at the time of publication.'

The Director of Planning and Regeneration confirms that her attention was first drawn to the MHCLG Garden Communities Prospectus on 17 August 2018. She sent an email to the Leader of the Council, Councillor Paul Spooner on the same day asking whether he would support the submission of a bid from Guildford in respect of Wisley Airfield. Councillor Paul Spooner responded by email on 20 August 2018 giving his support.

During the period up to 11 September 2018, the Planning Policy team were busy preparing for the consultation on the proposed Main Modifications to the Submission Local Plan. In the period leading up to and during the consultation period, key members of the Planning Policy team, who had spent significant time in the preceding months preparing for the local plan examination, attending and responding to points raised during the inquiry, preparing the main modifications to the plan and the consultation arrangements, finally took the opportunity of taking two weeks' annual leave. This meant that work on the preparation of the bid and seeking authority for its submission was not given the priority which it would otherwise have received.

The Forward Plan setting out key decisions and other decisions to be taken by the Executive is published monthly. The Forward Plan setting out details of the decisions to be taken by the Executive on 30 October 2018 was published on 25 September 2018.

In the normal course of events, any decision to submit a bid for funding to external organisations would be taken by the relevant Lead Councillor in accordance with the General Delegation to all Lead Councillors set out in Part 3 of the Council's Constitution (Responsibilities of the Leader and Lead Councillors).

Instead of a lead councillor decision on whether to submit a bid, the Leader of the Council indicated on 19 October 2018 that he would like to have an open public debate on the matter and so decided that the matter should be referred to the Executive for decision at its next scheduled meeting on 30 October 2018.

The Managing Director, and the Director of Planning and Regeneration, have both apologised publicly, and in a meeting with relevant councillors, for the short time period in preparing the original report and also for not involving ward councillors at an earlier date.

2: All key decisions [those likely to result in expenditure or savings of £200,000 or have a significant impact on 2 or more wards] are required to be publicised in the Forward Plan at least 28 days before the relevant Executive decision. Again, why was this requirement not met? Is it not a key decision?

As explained at the Executive meeting, the Council Solicitor and Monitoring Officer and the Democratic Services Manager considered that a decision to submit a bid, of itself, could not be construed as being a "key decision", as defined in the Council's Constitution and referred to in the question. Consequently, there was no requirement to publish via the Forward Plan notice of intention to take the decision at least 28 days before the decision was scheduled to be taken.

This differs from a substantive decision, which might follow and involve a host of possible interventions - including local development vehicles, supplementary planning documents, joint ventures, and statutory development corporations to promote a Garden Village, any one of which is likely to be a key decision.

3: Section 32 of the Garden Communities Prospectus states : 'We expect the submission of a proposal to have been preceded by a period of engagement with the Department [MHCLG] and Homes England, and encourage initial contact to be made as early as possible.' When did the Council first contact the Ministry of Housing, Communities and Local Government about a Bid?

The Planning Policy Team first spoke with MHCLG specifically about the Wisley Garden Village bid on 5 November 2018."

5.4.14 The minute of that meeting was as follows:

"The Committee noted that its terms of reference included the review of any corporate governance issue referred to it by the Managing Director, a Director, the Leader/Executive, or any other committee of the Council.

Following receipt of a number of corporate governance related questions from the Chairman of the Overview and Scrutiny Committee, Councillor Caroline Reeves, regarding the decision taken by the Executive on 30 October 2018 to submit a Garden Village Bid for Wisley Airfield, the Managing Director had referred the issue to this Committee for consideration.

A copy of an email from the Managing Director to Councillor Reeves setting out the questions, together with a response, was attached to the agenda for the meeting.

In considering the matter, the Committee made the following points:

- Whether it would be appropriate for this Committee to review the operation of the Forward Plan. The Corporate Management Team had acknowledged that the Forward Plan was in need of a review to ensure that decisions to be taken*

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by the Executive were programmed for consideration by the Executive at an early stage to ensure that all councillors were aware.

- As the local ward councillor was not informed of the Executive's intention to consider this matter, this case had highlighted the need to ensure that local ward councillors were consulted, or at least notified, of events or matters directly affecting their wards. Similarly, parish councils should also be consulted/notified of matters affecting the parished areas. The Committee was informed that this issue had been raised during the governance review in 2015-16, and the Council had agreed to require report authors to routinely inform and/or consult with and record the comments of local ward councillors, where appropriate. In addition, the scheme of delegation to officers had been reviewed to require consultation with, or notification to, local ward councillors in appropriate cases. It was noted that the Managing Director had apologised for not having consulted the local member in this case.*
- As it was a requirement for councils in two tier areas to secure the support of the relevant county council in respect of the garden village bids, whether Surrey County Council, in giving its support, had observed their relevant governance processes. Although Surrey County Council had formally supported the Bid, it was not known whether all of their processes had been followed.*

The Committee therefore

RESOLVED: That the Managing Director's response to the questions raised by Councillor Caroline Reeves in connection with the Wisley Garden Village Bid be noted, together with the comments raised by the Committee referred to above."

- 5.4.15 We consider that the decision taken by ex-Cllr Reeve was the correct one and that the actions she then took to raise the matters that she did was also appropriate as were the responses from the Managing Director.
- 5.4.16 That exchange captured the learning points. The Committee may care to ensure that those points have been learnt and applied.

6 Other Points

- 6.1 In our First Report, we noted that given the nature of the information that we have set out in this report, we do feel that much of this could have been made public if not immediately, certainly later as and when concerns were raised.
- 6.2 Doing so may well have removed the (albeit misconceived) perception that there were substantive issues underpinning the production of the bid document arising from an inappropriate relationship between the Council and the promoters of the Wisley Garden Village.
- 6.3 We were invited to identify learning points from the call-in issue and suggest that the points raised by ex-CLlr Reeve and responded to by the Managing Director captured the learning points from that incident. The Committee may care to ensure that those points have been learnt and applied.

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Overview and Scrutiny Committee

Ward(s) affected: All wards

Report of Director of Resources

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Date: 8 June 2021

Annual Report: Modern Slavery Motion

Executive Summary

The Modern Slavery Charter was adopted in February 2020 by the then Leader of the Council in order to implement measures to respond to the rise in modern slavery in its safeguarding policy and procedures. The primary aim of the Charter is to tackle exploitation in Guildford.

The Charter set out specific measures to be undertaken in order to demonstrate adoption of the motion. Part of the commitment to adopt the motion is to report annually on the implementation of the Policy.

This annual report therefore outlines how the Council, through Procurement and contracting, are implementing the Modern Slavery Motion. There are ten specific measures which this report outlines progress to date. Additional steps the Council are working towards to strengthen this work area includes consideration of some emerging policy from the Home Office published in September 2020 requiring certain organisations with a turnover of £36 million + to produce a Modern Slavery Statement for each Financial Year. The Government have outlined that there is an intention to roll this out within Local Government.

The report concludes that the Council are undertaking sufficient measures to mitigate any potential Modern Slavery and or associated actions.

Recommendation to Committee

That the Committee notes the annual update report on the Modern Slavery Motion.

Reason(s) for Recommendation:

The Council have an obligation to report annually on the implementation of the Policy.

Is the report (or part of it) exempt from publication?

No

1. Purpose of Report

- 1.1 To provide an annual report as specified within the Modern Slavery Motion to demonstrate progress and measures taken to implement the Motion in practise through Contracting and Procurement.

2. Strategic Priorities

- 2.1 Procurement supports the Councils Strategic Framework, in particular the Innovation theme as it encourages sustainable and proportionate economic growth to help provide the prosperity and employment that people need.
- 2.2 Procurement and Commissioning is a highly innovative work area which utilises technology and new ways of working to improve value for money and efficiency in Council services.

3. Background

- 3.1 The Leader of the Council took the decision in 2020 to adopt the Modern Slavery Motion, see Appendix 1, as part of the Council's response to the rise in modern slavery.
- 3.2 The measures in Table 1 below have been implemented and progress updates have been provided which outline how Modern Slavery mitigation has been embedded in practise.

Table 1 – Measures and Progress of implementation of the Modern Slavery Motion

Modern Slavery Motion Measure	Progress Update
1. Train its corporate procurement team to understand modern slavery through the Chartered Institute of Procurement and Supply's (CIPS) online course on Ethical Procurement and Supply	All permanent procurement team members have undertaken the specified CIPS training and assessment.
2. Require its contractors to comply fully with the Modern Slavery Act 2015, wherever it applies, with contract termination as a potential sanction for non-compliance	A clause is included in the Council's template Terms and Conditions which are issued for contracts by Legal Services.
3. Challenge any abnormally low-cost tenders to ensure they do not rely upon the potential contractor practising modern slavery.	Abnormally low Tenders if received are challenged in any event in line with the Public Contract Regulations 2015. Only when a satisfactory reason is received to justify the abnormally low price would the Tender be considered compliant and therefore accepted. This will include consideration of whether the contractor is practising

	modern slavery
4. Highlight to its suppliers that contracted workers are free to join a trade union and are not to be treated unfairly for belonging to one	A paragraph has been added into the template Invitation to Tender (ITT).
5. Publicise its whistle-blowing system for staff to blow the whistle on any suspected examples of modern slavery	Under the modern slavery paragraph in the ITT it is stated that the Council will report any contractor expected of being involved with Modern Slavery.
6. Require its tendered contractors to adopt a whistle-blowing policy which enables their staff to blow the whistle on any suspected examples of modern slavery	This has been included in the ITT contractors have to abide by the Council's whistleblowing policy.
7. Review its contractual spending regularly to identify any potential issues with modern slavery.	The Council's Procurement Strategy adopted on 26 May 2020 specifies a Category Management model and a key component of this is spend analysis and visibility of expenditure across the organisation which is actively taking place.
8. Highlight for its suppliers any risks identified concerning modern slavery and refer them to the relevant agencies to be addressed	A section within the ITT stipulates that any indications of Modern Slavery will be reported to the National Crime Agency for investigation.
9. Refer for investigation via the National Crime Agency's national referral mechanism any of its contractors identified as a cause for concern regarding modern slavery	The Council has not made any referrals to date because there have not been any contractors identified as a cause of concern regarding modern slavery.
10. Report publicly on the implementation of this policy annually.	This report is the first annual report and there will be a further report available in 2022.

3.3 There is some additional work which is in development to further support the implementation of Modern Slavery mitigation measures.

3.4 Following a benchmarking exercise it is evident that some other Local Authorities have some supplementary information on their website to further cement the principles of ethical procurement. Surrey County Council for example have two statements on their website which are an 'Ethical Procurement Statement' and 'Supplier Code of Conduct'.

- 3.5 While Guildford Borough Council have these measures in contract terms and conditions it is suggested specific policy documents are drafted and added to the public website to further demonstrate the Council's commitment to tackling Modern Slavery.
- 3.6 Consideration should also be made of some emerging policy from the Home Office published in September 2020 which requires certain organisations with a turnover of £36 million + to produce a Modern Slavery Statement for each Financial Year. The Government have outlined that they intention to roll this out within Local Government also for organisations of the same financial standing.

4. Consultations

Cllr Tim Anderson – Lead Councillor for Resources

- 4.1 The Council has signed the Charter Against Modern Slavery. The details of what this covers are summarised in this report. By signing, the Council should report publicly on the implementation of this policy annually.
- 4.2 The annual report will include additional measures as recommended; a Modern Slavery Statement, an ethical procurement statement and publication of a supplier code of conduct.

5. Key Risks

- 5.1 If progress is not demonstrated in relation to Modern Slavery and an annual report provided to Committee the Council are not fulfilling their obligations under the Modern Slavery Motion.
- 5.2 If progress is not made in this area and robust measures implemented there is a risk that exploitation could take place through the supply chain in Council contracts. It is paramount therefore that robust measures as outlined in section three are continued and progress is reported to Committee on an annual basis.

6. Financial Implications

- 6.1 No specific Financial implications apply.

7. Legal Implications

- 7.1 The Modern Slavery Act 2015 is aimed at preventing crimes of slavery and human trafficking. The Council as a public body has a duty to ensure that it is not complicit in modern slavery practice by utilising contractors who are breaching the Act. The Council by including a Modern Slavery clause in its contract terms is passing its duty onto its contractors and any sub-contractors. Currently the provision (under s.54 of the Act) to prepare and publish a slavery and human trafficking statement is not mandatory for local authorities, however it is likely it will be in the future, also it is considered best practice for public bodies to prepare and publish these statements.

8. Human Resource Implications

8.1 No specific HR implications apply.

9. Equality and Diversity Implications

9.1 This report concerns ethical procurement and the eradication of Modern Slavery in Council contracts, there is therefore a strong theme of equality running throughout this report.

10. Climate Change/Sustainability Implications

10.1 No specific Climate change/sustainability implications apply

11. Suggested issues for overview and scrutiny

11.1 Overview and Scrutiny are asked to note the annual update report.

12. Summary of Options

12.1 Option 1 - To note the contents of this report, including the further measures which can be undertaken in order to strengthen the Council's response to Modern Slavery.

12.2 Option 2 – To not consider this report.

13. Conclusion

13.1 By signing up to the Modern Slavery Charter, the Council have committed to implementing the steps outlined in Table One in section 3.2 of this report.

13.2 The Council will continually monitor progress in this area ensuring best practice is adhered to.

14. Background Papers

None

15. Appendices

Appendix 1 - The Modern Slavery Charter

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Motion to Full Council, 3 December 2019

Guildford Borough Council has embedded measures to address the evils of modern slavery in its safeguarding policy and procedures and we welcome this as an essential first step to tackling exploitation in Guildford.

However, with the number of people estimated to have been coerced into modern slavery nationally increasing tenfold between 2013 and 2016 – from 13,000 to 136,000 – we believe that a more proactive approach now needs to be taken by this council, in line with the 50 others – including Surrey County Council – that have signed up to the Charter against Modern Slavery.

Collectively, councils across the UK spend £40bn per year on procuring services from hundreds of contractors and sub-contractors and they oversee large supply chains in all areas of their business. As public bodies, accountable to the public, they have a duty to ensure that those supply chains do not hide the sins and iniquities of exploitation.

The Charter against Modern Slavery

By signing the Charter against Modern Slavery, Guildford Borough Council commits to:

1. Train its corporate procurement team to understand modern slavery through the Chartered Institute of Procurement and Supply's (CIPS) online course on Ethical Procurement and Supply.
2. Require its contractors to comply fully with the Modern Slavery Act 2015, wherever it applies, with contract termination as a potential sanction for non-compliance.
3. Challenge any abnormally low-cost tenders to ensure they do not rely upon the potential contractor practising modern slavery.
4. Highlight to its suppliers that contracted workers are free to join a trade union and are not to be treated unfairly for belonging to one.
5. Publicise its whistle-blowing system for staff to blow the whistle on any suspected examples of modern slavery.

6. Require its tendered contractors to adopt a whistle-blowing policy which enables their staff to blow the whistle on any suspected examples of modern slavery.
7. Review its contractual spending regularly to identify any potential issues with modern slavery.
8. Highlight for its suppliers any risks identified concerning modern slavery and refer them to the relevant agencies to be addressed.
9. Refer for investigation via the National Crime Agency's national referral mechanism any of its contractors identified as a cause for concern regarding modern slavery.
10. Report publicly on the implementation of this policy annually.

Councils who sign this charter can access cost-free support through the Transparency in Supply Chains report (<https://tiscreport.org/>), an NGO that will monitor companies supplying the council in relation to their compliance with section 54 of the Modern Day Slavery Act 2015.

The Council resolved to ask the Leader of the Council:

1. To sign the Charter Against Modern Slavery, which encompasses points 1 to 10 above, immediately to ensure that it does not inadvertently rely on exploitation and modern slavery in its use of suppliers.
2. To report back on progress to Full Council on an annual basis, one year from the date the Charter is signed and each year thereafter.

Overview and Scrutiny Committee Report
Report of Director of Strategic Services
Author: James Dearling
Tel: 01483 444141
Email: james.dearling@guildford.gov.uk
Date: 8 June 2021

Overview and Scrutiny Work Programme

Recommendation

That the Committee consider the overview and scrutiny work programme attached at Appendix 1 and determine its work plan.

Reason for Recommendation

To enable the Committee to review and agree its work programme for the coming months.

1. Purpose of Report

- 1.1 As approved by Council, the remit of the Overview and Scrutiny Committee (OSC) includes the specific responsibility to approve the overview and scrutiny work programme to ensure that the Committee's time is used effectively and efficiently.
- 1.2 A well-planned overview and scrutiny function will help both officers and members plan their workloads as well as providing a clear picture to the public of planned activity. An effective work programme is the foundation for a successful overview and scrutiny function.
- 1.3 This report sets out the overview and scrutiny work programme as developed thus far for the period 2021-22.

2. Work Programme Meetings

- 2.1 In addition, Council has agreed that the OSC is responsible for setting its own work programme in accordance with the following procedure:

The chairmen and vice-chairmen of the OSC and the Executive Advisory Boards and relevant officers shall normally meet at least bi-monthly to exchange, discuss and agree proposed rolling 12-18 month work programmes for submission periodically to the OSC (in respect of the OSC work programme) and to the Executive Advisory Boards (in respect of the EAB work programmes) for approval. The proposed work programme for the OSC will be determined with reference to the P.A.P.E.R. selection tool, attached as Appendix 2 to these procedure rules [and as Appendix 2 to this report].

The chairman and vice-chairman of the OSC will ensure that all councillors are able to submit requests for alterations to the work programme for consideration at each of these work programme meetings.

- 2.2 The next work programme meeting of the chairmen and vice-chairmen of the OSC and the EABs is scheduled for 21 July 2021, with subsequent meetings on 15 September 2021, 10 November 2021, 19 January 2022, and 16 March 2022.
- 2.3 Councillors are encouraged to attend a work programme meeting to explain in more detail their proposal, including how it fulfils the criteria outlined in the mnemonic P.A.P.E.R. (Public interest; Ability to change; Performance; Extent; and Replication).
- 2.4 In addition to the work programme meetings in section 2.2 above, Councillors can discuss and submit proposals to the OSC Chairman and Vice-Chairman.

3. Financial Implications

- 3.1 There are no specific financial implications arising from this report.
- 3.2 The Council's governance arrangements review of 2015 led to the introduction of a discretionary budget for overview and scrutiny, set at £5,000 per annum. It is envisaged that the work programme, as drafted, is achievable within the existing financial resource.

4. Human Resource Implications

- 4.1 There are no specific human resources implications. It is envisaged that the work programme, as drafted, is achievable within the existing resources.
- 4.2 Overview and scrutiny will call on relevant officers during the conduct of its reviews. Individual scoping reports will seek to take additional resource requirements into account when drafted.

5. Equality and Diversity Implications

- 5.1 The Council has a statutory duty under section 149 of the Equality Act 2010 which provides that a public authority must, in exercise of its functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 5.2 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report. Future overview and scrutiny reviews will consider equality implications on a case-by-case basis.

6. Legal Implications

- 6.1 There are no specific legal implications.

7. Climate Change/Sustainability Implications

- 7.1 There are no specific climate change / sustainability implications.

8. Conclusion

- 8.1 Developing a work programme for the overview and scrutiny function is an essential stage in the scrutiny process. An effective overview and scrutiny work programme identifies the key topics to be considered over the coming months. In addition, it is suggested that a well-developed programme ensures that the views of councillors, partners, the public, and external organisations are represented effectively in the process.
- 8.2 The Committee is requested to consider the work programme attached at Appendix 1 and determine its work plan.
- 8.3 For information, attached at Appendix 3 is the procedure which task and finish groups are expected to operate and report their findings in accordance with.

9. Background papers

None

10. Appendices

- 1. Overview and scrutiny work programme
- 2. P.A.P.E.R. selection tool
- 3. Task group procedure [Appendix 4 of the Overview and Scrutiny Procedure Rules within the Council's Constitution].

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Overview & Scrutiny work programme, 2021-22

Overview & Scrutiny Committee items
<p>29 June 2021 meeting</p> <ul style="list-style-type: none">• COVID-19 response• Lead Councillor Question Session – Councillor John Redpath, Lead Councillor for Economy• Food Poverty – update• Licensing of Houses in Multiple Occupation (HMO) Update
<p>13 July 2021 meeting</p> <ul style="list-style-type: none">• COVID-19 response• Lead Councillor Question Session – Councillor Joss Bigmore, Leader of the Council and Lead Councillor for Service Delivery• Lead Councillor Question Session – Councillor John Rigg, Lead Councillor for Regeneration [continuing from 3 March Committee meeting]• Spend on consultants and agency workers – update• Review of Overview and Scrutiny Annual Report, 2020-21
<p>14 September 2021 meeting</p> <ul style="list-style-type: none">• Lead Councillor Question Session – Councillor James Steel, Lead Councillor for Environment• Implementation of Future Guildford• Safer Guildford Partnership Annual Report 2021• Air Quality Strategy 2017-22 – monitoring progress• Update on unauthorised gypsy and traveller encampments and Surrey's transit site
<p>9 November 2021 meeting</p> <ul style="list-style-type: none">• Lead Councillor Question Session – Councillor Jan Harwood, Lead Councillor for Climate Change• Spend on consultants and agency workers: 12-month review• Operation of the Leisure Management contract, 2020-21• Impact of Brexit• Council's project and programme governance
<p>18 January 2022 meeting</p> <ul style="list-style-type: none">• Lead Councillor Question Session – Councillor Tim Anderson, Lead Councillor for Resources• Annual report and monitoring arrangements for operation of the G-Live contract, 2020-21
<p>1 March 2022 meeting</p> <ul style="list-style-type: none">• Lead Councillor Question Session – Councillor John Rigg, Lead Councillor for Regeneration
<p>Monday 25 April 2022 meeting</p> <ul style="list-style-type: none">• Lead Councillor Question Session – Councillor John Redpath, Lead Councillor for Economy

Currently unscheduled items

- Outcome of investigations into Guildford Crematorium stack height [awaiting timetable of audit to schedule item]
- Visitor and Tourism Strategy
- Lead Councillor Question Session – Councillor Hunt, Lead Councillor for Development Management
- Post COVID-19 Homelessness strategy, housing strategy/policies
- Spectrum 2.0 [February 2021 Service Delivery Executive Advisory Board invited to consider project mandate relating to maintaining existing Spectrum]

Task and finish groups

Title	Update
Social Housing Issues in the Borough	Membership: Cllrs Tony Rooth (Chair), George Potter (Vice-Chair), Ruth Brothwell, Angela Goodwin, Angela Gunning, Ramsey Nagaty, and Jo Randall. Draft scope shared with relevant officers for comment and feedback, prior to Overview and Scrutiny Committee Chair and Vice-Chair sign off.
Mental Health Provision in the Borough	Membership: Cllrs Paul Abbey, Richard Billington, and Fiona White. Task and finish group to draft scope.

Overview and Scrutiny Committee

P.A.P.E.R. selection tool

Public interest: concerns of local people should influence the issues chosen

Ability to change: priority should be given to issues that the Committee can realistically influence

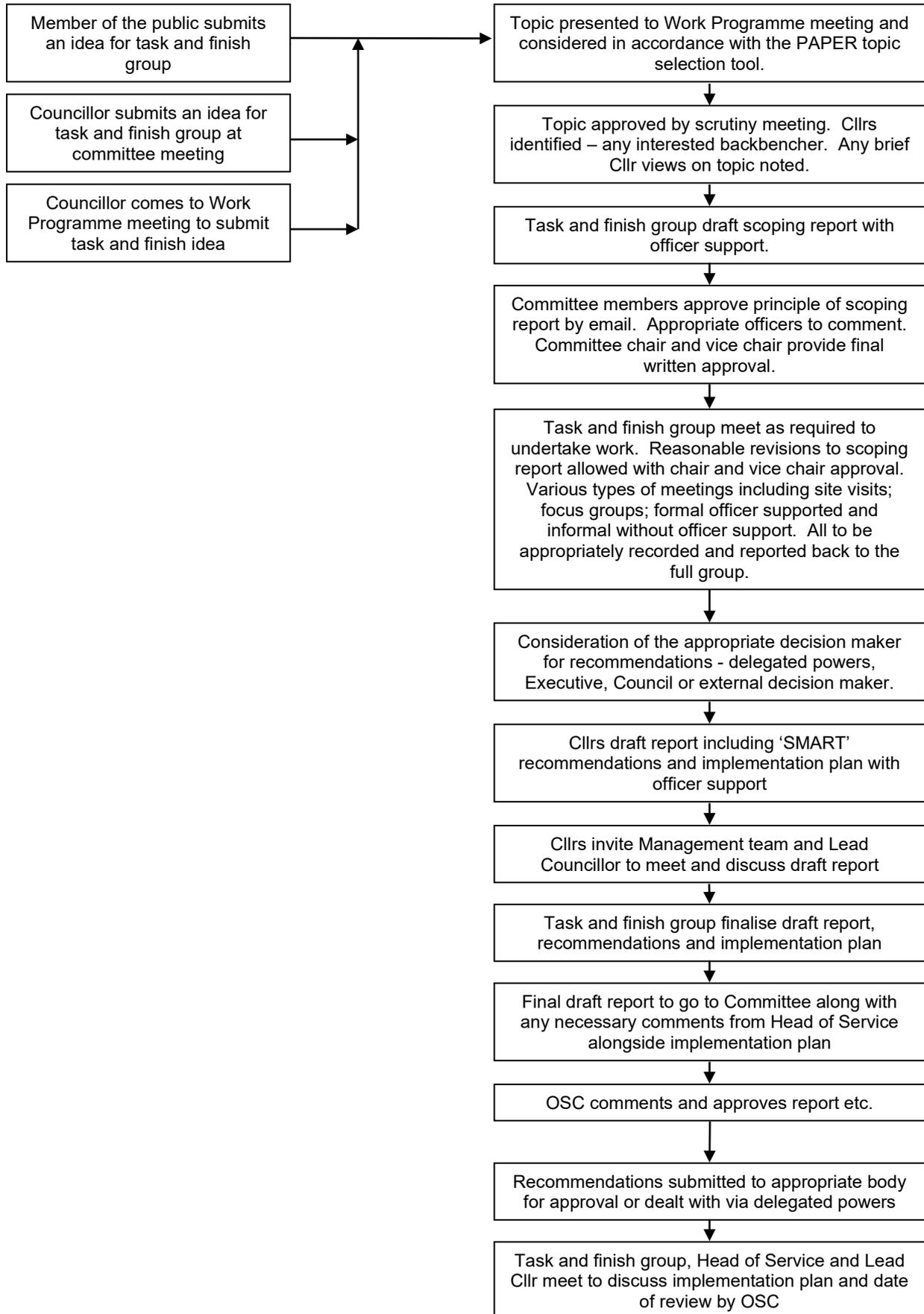
Performance: priority should be given to areas in which the Council and Partners are not performing well

Extent: priority should be given to issues that are relevant to all or a large part of the Borough

Replication: work programme must take account of what else is happening to avoid duplication or wasted effort

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TASK AND FINISH GROUP FLOWCHART



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