

West Devon Council



West Devon
Borough
Council

Title:	Summons																																													
Date:	Tuesday, 29th September, 2015																																													
Time:	4.30 pm																																													
Venue:	Chamber - Kilworthy Park																																													
Full Members:	<p style="text-align: center;">Mayor Cllr Cloke Deputy Mayor Cllr Sheldon</p> <p><i>Members:</i></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Cllr Baldwin</td> <td style="width: 33%;">Cllr Moyse</td> <td style="width: 33%;"></td> </tr> <tr> <td>Cllr Ball</td> <td>Cllr Musgrave</td> <td></td> </tr> <tr> <td>Cllr Benson</td> <td>Cllr Oxborough</td> <td></td> </tr> <tr> <td>Cllr Cann OBE</td> <td>Cllr Parker</td> <td></td> </tr> <tr> <td>Cllr Cheadle</td> <td>Cllr Pearce</td> <td></td> </tr> <tr> <td>Cllr Davies</td> <td>Cllr Ridgers</td> <td></td> </tr> <tr> <td>Cllr Edmonds</td> <td>Cllr Roberts</td> <td></td> </tr> <tr> <td>Cllr Evans</td> <td>Cllr Sampson</td> <td></td> </tr> <tr> <td>Cllr Hockridge</td> <td>Cllr Samuel</td> <td></td> </tr> <tr> <td>Cllr Jory</td> <td>Cllr Sanders</td> <td></td> </tr> <tr> <td>Cllr Kimber</td> <td>Cllr Sellis</td> <td></td> </tr> <tr> <td>Cllr Leech</td> <td>Cllr Stephens</td> <td></td> </tr> <tr> <td>Cllr McInnes</td> <td>Cllr Watts</td> <td></td> </tr> <tr> <td>Cllr Moody</td> <td>Cllr Yelland</td> <td></td> </tr> <tr> <td>Cllr Mott</td> <td></td> <td></td> </tr> </table>	Cllr Baldwin	Cllr Moyse		Cllr Ball	Cllr Musgrave		Cllr Benson	Cllr Oxborough		Cllr Cann OBE	Cllr Parker		Cllr Cheadle	Cllr Pearce		Cllr Davies	Cllr Ridgers		Cllr Edmonds	Cllr Roberts		Cllr Evans	Cllr Sampson		Cllr Hockridge	Cllr Samuel		Cllr Jory	Cllr Sanders		Cllr Kimber	Cllr Sellis		Cllr Leech	Cllr Stephens		Cllr McInnes	Cllr Watts		Cllr Moody	Cllr Yelland		Cllr Mott		
Cllr Baldwin	Cllr Moyse																																													
Cllr Ball	Cllr Musgrave																																													
Cllr Benson	Cllr Oxborough																																													
Cllr Cann OBE	Cllr Parker																																													
Cllr Cheadle	Cllr Pearce																																													
Cllr Davies	Cllr Ridgers																																													
Cllr Edmonds	Cllr Roberts																																													
Cllr Evans	Cllr Sampson																																													
Cllr Hockridge	Cllr Samuel																																													
Cllr Jory	Cllr Sanders																																													
Cllr Kimber	Cllr Sellis																																													
Cllr Leech	Cllr Stephens																																													
Cllr McInnes	Cllr Watts																																													
Cllr Moody	Cllr Yelland																																													
Cllr Mott																																														
Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.																																													
Committee administrator:	Member.Services@swdevon.gov.uk																																													

1. Apologies for Absence

2. Declarations of Interest

Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting.

If Councillors have any questions relating to predetermination, bias or interests in items on this Summons, then please contact the Monitoring Officer in advance of the meeting.

3. Confirmation of Minutes

1 - 6

To approve and adopt as a correct record the Minutes of the Meeting of Council held on 28 July 2015

4. To receive communications from the Mayor or person presiding

5. Business brought forward by or with the consent of the Mayor

6. To respond to any questions submitted by the public and to receive deputations or petitions under Council Procedure Rule 21

7. To consider motions of which notice has been submitted by Members of the Council in accordance with Council Procedure Rule 15

8. To consider questions submitted by Members under Council Procedure Rule 21

9. To receive the Minutes of the following Committees, to note the delegated decisions and to consider the adoption of those Minutes which require approval:

7 - 44

(i) Planning & Licensing Committee

Meeting held on 21 July 2015

Meeting held on 18 August 2015

Meeting held on 15 September 2015

(ii) Overview & Scrutiny (Internal) Committee
Meeting held on 21 July 2015

(iii) Audit Committee
Meeting held on 28 July 2015

Unstarred Minute to agree
Members are recommended to agree:

AC 11 Contract Procedure Rules
RESOLVED to **RECOMMEND** that the Audit Committee has reviewed the updated version of the Contract Procedure Rules and the Council be **RECOMMENDED** to approve the revised Rules for inclusion in the Council's Constitution.

(iv) Hub Committee
Meeting held on 22 September 2015

- | | | |
|------------|--|----------------|
| 10. | To receive the report of the Place and Strategy Specialist on Planning Obligations Thresholds | 45 - 76 |
| 11. | To receive the report of the Group Manager - Business Development on the Introduction of a Discretionary Local Business Rate Relief Discount Policy | 77 - 88 |

This page is intentionally left blank

Agenda Item 3

At the Meeting of the **WEST DEVON BOROUGH COUNCIL** held in the **COUNCIL CHAMBER, KILWORTHY PARK, TAVISTOCK** on **TUESDAY** the **29th** day of **SEPTEMBER 2015** at **4.30pm** pursuant to Notice given and Summons duly served.

Present

Cllr D W Cloke – The Mayor (In the Chair)

Cllr K Ball	Cllr M J R Benson
Cllr M Davies	Cllr C Edmonds
Cllr J Evans	Cllr L J G Hockridge
Cllr N Jory	Cllr P Kimber
Cllr A F Leech	Cllr J R McInnes
Cllr J B Moody	Cllr D E Moyse
Cllr C R Musgrave	Cllr R J Oxborough
Cllr G Parker	Cllr T G Pearce
Cllr P J Ridgers	Cllr A Roberts
Cllr R F D Sampson	Cllr L Samuel
Cllr P R Sanders	Cllr D K A Sellis
Cllr B Stephens	Cllr L Watts
Cllr J Yelland	

Head of Paid Service
Monitoring Officer
Senior Specialist – Democratic Services

CM 27 APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllrs R E Baldwin, W G Cann OBE, R Cheadle, C Mott and J Sheldon.

CM 28 DECLARATION OF INTEREST

The Mayor invited Members to declare any interests in the items of business to be considered during the course of the meeting.

At the request of the Leader, the Monitoring Officer was asked to provide advice to the Council on Item 11: 'Introduction of a Discretionary Local Business Rate Relief Discount Policy' (Minute CM 33 below refers). The Monitoring Officer proceeded to inform that it was her legal advice that any Members who may be contemplating either starting a new business, relocating a business or expanding a business and, who may therefore potentially wish to take advantage of the Policy, should declare a Disclosable Pecuniary Interest and leave the meeting room for this agenda item.

Cllr R J Oxborough proceeded to declare a Disclosable Pecuniary Interest in agenda item 11 (Minute CM 33 below refers) by virtue of him owning a business which he may wish to expand in due course and he left the meeting room during consideration of this item.

CM 29 CONFIRMATION OF MINUTES

It was moved by Cllr P R Sanders, seconded by Cllr R F D Sampson and upon the motion being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Council agree the Minutes of the 28 July 2015 meeting as a true record.”

CM 30 COMMUNICATIONS FROM THE MAYOR

In providing an update on the engagements that he and the Deputy Mayor had attended since the last meeting, the Mayor made particular reference to the success of the events at Dartmoor Folk Festival and the turf cutting ceremony at Okehampton Business Park. As a general comment, the Mayor also stated that it was pleasing that a number of Members were also in attendance and representing the Council at these events.

CM 31 MINUTES OF COMMITTEES

a. Planning & Licensing Committee – 21 July 2015, 18 August 2015 and 15 September 2015

It was moved by Cllr D K A Sellis, seconded by Cllr M J R Benson and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 21 July 2015, 18 August 2015 and 15 September 2015 meetings be received and noted”.

b. Overview & Scrutiny (Internal) Committee – 21 July 2015

It was moved by Cllr C R Musgrave, seconded by Cllr J Yelland and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 21 July 2015 meeting be received and noted”.

c. Audit Committee – 28 July 2015

It was moved by Cllr M Davies, seconded by Cllr B Stephens and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 28 July 2015 be received and noted, with the exception of Unstarred Minute AC 11”.

In respect of the Unstarred Minute:

i. AC 11 – Contract Procedure Rules

It was moved by Cllr M Davies, seconded by Cllr B Stephens and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the updated version of the Contract Procedure Rules and the Council approve the revised Rules for inclusion in the Council’s Constitution”.

d. Hub Committee – 22 September 2015

It was moved by Cllr P R Sanders, seconded by Cllr M J R Benson and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 22 September 2015 meeting be received and noted, with the exception of Unstarred Minutes HC 14, 16, 17, 19 and 20”.

In respect of the Unstarred Minutes:

i. HC 14 – Our Plan Update

It was moved by Cllr P R Sanders, seconded by Cllr M J R Benson and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that:

1. option 2 for progression of Our Plan (as set out at paragraph 4 of the presented agenda report to the Hub Committee meeting) be pursued recognising that this will need an extended plan period to 2032 or 2033;
2. a detailed Duty to Co-Operate protocol, or similar agreement, be established with neighbouring planning authorities within the Housing Market Area. This would address joint approaches to strategic planning relating to timetable, evidence, policies, strategic allocations, governance, staffing, scope of Housing Market Area, viability and infrastructure amongst other matters;
3. the Local Development Scheme be reviewed and re-issued in line with recommendation 1;
4. further evidence work (joint or specific) be procured as required;
5. a budget provision for 2016/17 of £75,000 be made for Our Plan, which will be a cost pressure built into the Council's Medium Term Financial Plan for 2016/17 onwards;
6. a Settlement Boundary Policy be considered for incorporation in future versions of Our Plan and necessary preparatory work be undertaken to allow for this option;
7. it be agreed that a World Heritage Site Supplementary Planning Document (SPD) be pursued in line with existing and proposed development plan policies;
8. a further “Call for Sites” be initiated;
9. site OP16 at Brook Lane, Tavistock be agreed to be deleted from future versions of Our Plan;
10. Guidance for Neighbourhood Plan Groups be issued to inform their work as it relates to Our Plan;
11. a refreshed Our Plan Engagement Strategy be issued;
12. regular Member update sessions be timetabled;
13. a further report be submitted to the Hub Committee and Council making specific proposals for future consultation, consideration and submission of Our Plan; and

14. those specific details to be agreed under recommendations 2,3,4,5,6,7,8,9,10 and 11 be delegated to the Lead Specialist – Place and Strategy, in consultation with the lead Hub Committee Member and the Leader of Council.”

ii. **HC 16 – Council Tax Discretionary Discount and Reduction Policy**

It was moved by Cllr P R Sanders, seconded by Cllr M J R Benson and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the combined Council Tax Discretionary Discount and Reduction Policy.”

iii. **HC 17 – Devon Home Choice & Local Allocations Policy Review**

It was moved by Cllr P R Sanders, seconded by Cllr M J R Benson and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that:

1. the Council remain in the Devon Home Choice Partnership, with this arrangement being reviewed again in twelve months time; and
2. no changes be made at this time to the Council’s Local Allocation Policy, with this arrangement also being reviewed again in twelve months time.”

iv. **HC 19 – Health and Safety Management**

It was moved by Cllr P R Sanders, seconded by Cllr M J R Benson and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that:

1. the Health and Safety Statement of Policy be accepted and signed by the Head of Paid Service and the Leader of Council; and
2. the Health and Safety Statement of Policy be reviewed and signed annually on the occasion of the Annual Council meeting.”

v. **HC 20 – Joint Data Protection Policy**

It was moved by Cllr P R Sanders, seconded by Cllr M J R Benson and upon being submitted to the meeting was declared to be **CARRIED** and “**RESOLVED** that:

1. the Joint Data Protection Policy (as attached at Appendix A of the presented agenda report to the Hub Committee meeting) and Supporting Codes of Practice and documentation; and
2. authority be delegated to the Monitoring Officer to make minor amendments.

CM 32

PLANNING OBLIGATIONS THRESHOLDS

Following a successful legal challenge by Reading and West Berkshire Councils, the Council considered a report that sought to revoke the interim planning obligations decisions that were agreed at full Council on 17 February 2015.

In discussion, Members felt that the High Court should be congratulated on this decision.

It was then proposed by Cllr G Parker, seconded by Cllr P R Sanders and upon being submitted to the Meeting was declared to be **CARRIED** and **"RESOLVED** that the interim planning obligations decision (as agreed at full Council on 17 February 2015) be revoked."

CM 33

INTRODUCTION OF A DISCRETIONARY LOCAL BUSINESS RATE RELIEF DISCOUNT POLICY

The Leader of Council presented a report that recommended that the Council utilised its powers to apply discretionary business rate relief.

In discussion, reference was made to:-

- (a) the composition of the new discretionary business rate relief decision panel. Whilst Members were generally supportive of the proposed composition of the panel (as outlined in paragraph 1.6 of the presented agenda report), the view was expressed that one of the stand-by panellists should be the Overview and Scrutiny (External) Committee Chairman. In addition, it was felt that the sentence relating to the involvement of local Ward Member(s) should be amended to read as follows:-

'The applicable local Ward Member(s) will be invited to attend a decision panel meeting in order to support the application decision making process.'

- (b) support for businesses who may fall on hard times. In the event of falling on hard times, Members were informed that this Policy would not be relevant and businesses would need to apply to a different fund that dealt specifically with hardship matters.

It was then proposed by Cllr P R Sanders, seconded by Cllr M J R Benson and upon being submitted to the Meeting was declared to be **CARRIED** and **"RESOLVED** that:

- a) discretionary business rate relief be offered to local businesses where it is in the interests of local Council tax payers to do so;
- b) a new discretionary business rate relief policy (as detailed within Appendix 1 of the presented agenda report) be ratified and the rate relief application form (as shown in Appendix 2 of the presented agenda report) be approved;

- c) the formation of a discretionary business rate relief decision panel be agreed, who will appraise and determine applications on an 'as-needs' basis as set out in paragraph 1.6 (and subject to inclusion of the amendments outlined in the minutes above) of the presented agenda report;
- d) authority be delegated to the Group Manager, Business Development, in consultation with the Deputy Leader of West Devon Borough Council, to make minor legal amendments to the Policy (as detailed within Appendix 1 of the presented agenda report) prior to it being published and adopted as appropriate;
- e) be reviewed in twelve months' time; and
- f) decisions made by the panel be referred to the Audit Committee."

(The Meeting terminated at 5.05 pm)

Mayor

Agenda Item 9

At a Meeting of the **PLANNING & LICENSING COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **21st** day of **JULY 2015** at **10.00 am**.

Present:

Cllr D K A Sellis – Chairman	
Cllr M J R Benson – Vice-Chairman	
Cllr R E Baldwin	Cllr C W G Cann OBE
Cllr L J G Hockridge	Cllr C Mott
Cllr D E Moyse	Cllr G Parker
Cllr T G Pearce	

Substitute: Cllr J Sheldon for Cllr A Roberts

Lead Specialist – Development Management (AHS)
Planning Officer (BD)
Affordable Housing Officer (AR)
Legal Officer (Mr Paul Clough)
Senior Case Manager (KT)

In attendance: Cllr J Evans

***P&L 11 APOLOGIES FOR ABSENCE**

An apology for absence was received from Cllr A Roberts (Substitute: Cllr J Sheldon).

***P&L 12 DECLARATION OF INTEREST**

Cllr G Parker - 00540/2015 - Cllr Parker stated that he was the applicant for this application and therefore he would leave the Chamber for the duration of this item.

Cllr G Parker – 00554/2013 – Cllr Parker declared a personal interest by virtue of being the Ward Member. He remained in the meeting and took part in the debate and vote.

Cllr J Sheldon – 00554/2013 – Cllr Sheldon declared a personal interest as prior to the ward boundary changes this site was within his ward. He remained in the meeting and took part in the debate and vote.

Cllr T G Pearce declared a personal interest in all applications by virtue of being on the Management Board of Devon Building Control Partnership. He remained in the meeting throughout and took part in the debate and vote on all items.

***P&L 13 URGENT BUSINESS**

The Chairman advised that there was one item of urgent business that related to application 00054/2015. This application had been deferred from a previous meeting following the publication of Government guidance. West Devon Borough Council had sought Counsel's opinion and this had been received the previous evening. In light of the advice,

legal officers recommended that the application be deferred again, to the next meeting on 18 August, 2015.

The local Ward Member stated that this information was disappointing, as a number of people had taken time off work to travel to Tavistock to hear the debate and discussion on this item. In his view, the decision on whether or not to defer could have been taken at an earlier time so that people were not inconvenienced. He asked that in future any such decision be made in time. The Lead Specialist apologised for the lateness of the deferral, but on the basis of the information received from Counsel, and the need to make sound and robust decisions, the only option was to recommend deferral.

The Chairman apologised on behalf of the Council. It was then **PROPOSED, SECONDED** and on being put to the vote declared **CARRIED**:

That application **00054/2015** be deferred.

***P&L 14 CONFIRMATION OF MINUTES**

The Minutes of the Meeting held on 23 June 2015 (page 1 to the Agenda), were confirmed, subject to a minor amendment, and signed by the Chairman as a correct record.

***P&L 15 PLANNING, LISTED BUILDING AND ENFORCEMENT REPORTS**

The Committee considered the applications prepared by the Lead Specialist – Development Management and considered also the comments of Town and Parish Councils together with other representations received, which were listed within the presented agenda reports and summarised below, and **RESOLVED**:

PLANNING APPLICATION REPORT

Case Officer: Ben Dancer

Ward: Tavistock South West

Ward Members: Cllrs J Evans and G Parker

Application No: 00554/2013

Agent/Applicant:

Ian Jewson Planning Ltd
1 Gas Ferry Road
Bristol
BS1 6UN

Applicant:

Bovis Homes Ltd

Site Address: Land adjacent to Callington Road, Tavistock

Development: Outline application for a mixed use development comprising up to 750 dwellings (Use Class C3), a primary school site (Use Class D1), a local convenience store (Use Class A1), railway station related development (Sui Generis) and associated infrastructure; including detailed drawings for a new vehicular and pedestrian access from the A390.

Reason item is being put before Committee

The previous resolution of the P&L Committee was to grant subject to signing of the associated s106 agreement by 1st January 2015. Due to the failure to meet this deadline and the need to review viability issues the application is again before Members to seek a new resolution to grant.

COMMITTEE DECISION: To delegate to the Community of Practice Lead Specialist – Development Management to grant conditional planning permission subject to Section 106 legal agreement being signed by 21 October 2015.

Key issues for consideration:

The principle of mixed use development, mainly residential, of this site had been established by the Core Strategy SP23A allocation. The report sets the context of the allocation, the significant role that this site is expected to make to the future growth of the town and its importance to the delivery of the Borough's five year land supply. Providing the application stays within the broad parameters of the allocation and the principles set out in the South and South West Tavistock Masterplan Supplementary Planning Document (SPD) the expectation is that it will be recommended for approval.

The application had been submitted in outline with all matters except access to be determined at the reserved matters stage (i.e. appearance, landscaping, layout and scale)

The Proposal:

Outline planning application for mixed use development comprising 'up to' 750 dwellings, a new primary school site, local convenience store (250 sqm), railway station and associated infrastructure. All matters are reserved except access.

Consultations:

- Highways Agency
- County Highway Authority
- Devon County Council – Education
- Devon County Council – Extra Care Housing
- Devon County Council – Waste Planning
- Devon County Council – Historic Environment
- Cornwall Council
- English Heritage
- Natural England
- Environmental Health
- WDBC Senior Drainage Engineer/Environment Agency
- South West Water
- Tavistock Town Council
- Tamar Valley AONB

Representations: 16 letters of concern/objection

Speakers: Cllr G Parker – Ward Member

Conclusion:

During debate on this application, Members raised some concerns relating to the proposed access to the site and potential traffic congestion, and the uncertainty on numbers of affordable homes, however, the Ward Member did confirm that this report was by way of an update and he looked forward to the inclusion of local Members and residents in a design forum as the application progressed.

PLANNING APPLICATION REPORT**Case Officer:** Alex Lawrey**Ward:** Tavistock South East**Ward Members:** Cllrs R Oxborough and D Sellis**Application No:** 00540/2015**Agent/Applicant:**

Mr P Brookes
Brookespowell
Burley View Studio
Vale Down
Lydford
Okehampton EX20 4BB

Applicant:

Mr and Mrs Parker
232 Whitchurch Road
Tavistock
Devon
PL19 9DQ

Site Address: 232 Whitchurch Road, Tavistock, Devon**Development:** Householder application for replacement front dormers to first floor roof.**Reason item is being put before Committee:** The applicant is a councillor for West Devon Borough Council**COMMITTEE DECISION:** Approval, subject to the following conditions:

- Standard time limit
- Adherence to plans
- Materials to match

The Proposal:

The proposed development is for alterations to the existing two front dormer windows changing flat-roof dormers to dual pitched roof. The design would be more in keeping with the existing front façade as it features a projecting gable end located in a central position and the two current dormers do not match this feature. The proposed change would also make them project slightly further forward on the front roof slope but would retain the same materials as the existing and would not have any significant adverse impacts in terms of design and landscape.

Consultations:

Tavistock Town Council
Devon County Council Highways

Representations: None

SPEAKERS: None

***P&L 16 PLANNING APPEALS UPDATE**

The Committee received and noted the updated list of Planning Appeals.

(The Meeting terminated at 11.05 am)

Dated this

Chairman

This page is intentionally left blank

At a Meeting of the **PLANNING & LICENSING COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **18th** day of **AUGUST 2015** at **10.00 am**

Present: Cllr D K A Sellis – Chairman
Cllr M J R Benson – Vice-Chairman
Cllr R E Baldwin Cllr C W G Cann OBE
Cllr L J G Hockridge Cllr C Mott
Cllr D E Moyse Cllr G Parker
Cllr T G Pearce

Substitute: Cllr P R Sanders for Cllr A Roberts

Lead Specialist – Development Management (AHS)
Planning Officer (BD)
Affordable Housing Officer (AR)
Legal Officer (Mr Paul Clough)
Senior Case Manager (KT)

In attendance: Cllrs D Cloke, C Edmonds, J Evans, A Leech, J Moody, R Sampson & J Sheldon

***P&L 17 APOLOGIES FOR ABSENCE**

An apology for absence was received from Cllr A Roberts (Substitute: Cllr P R Sanders).

***P&L 18 DECLARATION OF INTEREST**

Cllr G Parker – 00578/2015 – Cllr Parker declared that he had spoken to the applicant at length regarding this application and therefore felt he had predetermined the decision. He spoke in his capacity as a local Ward Member and then withdrew from the meeting for the debate and vote.

Cllr P R Sanders – 00578/2015 – Cllr Sanders declared a personal interest by virtue of being a known friend of the applicant. He left the meeting for the duration of this item.

Cllr T G Pearce declared a personal interest in all applications by virtue of being on the Management Board of Devon Building Control Partnership. He remained in the meeting throughout and took part in the debate and vote on all items.

***P&L 19 CONFIRMATION OF MINUTES**

The Minutes of the Meeting held on 21 July 2015 (page 1 to the Agenda), were confirmed and signed by the Chairman as a correct record.

***P&L 20 PLANNING, LISTED BUILDING AND ENFORCEMENT REPORTS**

The Committee considered the applications prepared by the Lead Specialist – Development Management and considered also the comments of Town and Parish Councils together with other representations received, which were listed within the presented agenda reports and summarised below, and **RESOLVED**:

PLANNING APPLICATION REPORT

Case Officer: James Clements

Ward: Drewsteignton

Ward Members: Cllr Ridgers

Application No: 00054/2015

Agent/Applicant:

Aardvark EM Ltd
Higher Ford
Wivellscombe
Taunton TA4 2RL

Applicant:

Powerhawk Limited
North Beer Farm
Spreyton
Devon EX17 5AP

Site Address: Land at NGR SX 698988, Spreyton, Devon

Development: Erection of a single wind turbine with a hub height of 40m and maximum blade tip height of 67m, formation of new vehicular access track and associated infrastructure. The application is accompanied by an Environmental Statement.

Reason item is being put before Committee

Ward Member stated that he 'fully supported the objections listed by Spreyton Parish Council'.

COMMITTEE DECISION: To **REFUSE** the application

Reasons for Refusal:

1. The proposed wind turbine by reason of its location, scale and movement would harm the significance of the Grade II* listed buildings Combe Farmhouse and Hendicott and Grade II listed buildings Week and Stockhay. As such the proposal is contrary to policies SP1, SP3, SP17, SP18, SP20 and BE3 of the West Devon Borough Council Core Strategy 2011 and West Devon Local Plan Review 2005 and guidance set out within the NPPF.
2. The proposed wind turbine by reason of its location, scale and movement with existing turbines and the proposed turbines at Denbrook would cause detrimental cumulative impact upon the visual amenity of the surrounding landscape contrary to policies SP1, SP3, SP17, SP20 & NE10 of the West Devon Borough Council Core Strategy 2011 and West Devon Local Plan Review 2005 and guidance set out within the NPPF.
3. The proposed wind turbine, by reason of its siting and scale would introduce a discordant feature into this tranquil rural landscape leading to an adverse impact upon the landscape character of the area. The proposal is therefore considered to be contrary to policies SP1, SP3, SP17, SP20 & NE10 of the West Devon Borough Council Core Strategy 2011 and West Devon Local Plan Review 2005 and guidance set out within the NPPF.

4. It has not been adequately demonstrated that the planning impacts to the landscape and upon the heritage assets in the locality identified by the affected local communities have been fully addressed and therefore a planning judgment has been made by the Local Planning Authority that the proposed wind turbine does not have community backing which is contrary to the written Ministerial Statement released on the 18th June 2015 from the Secretary of State for Communities and Local Government and paragraph 14 of the Planning Practice Guidance.

Key issues for consideration:

The main issues for consideration include the principle of development, pre-application consultation process, impact upon landscape character, visual and cumulative impact; impact upon amenity of nearby residents with regard to visual impact, noise/amplitude modulation & shadow flicker; heritage; highway safety, site access & construction of access track and ecology.

The Proposal:

Planning permission is sought for the erection of a wind turbine with a hub height of 40m and maximum tip height of 67m, formation of a vehicular access track and associated infrastructure.

Consultations:

- Landscape officer
- County Archaeologist
- Environmental Health
- Highway Authority
- Spreyton Parish Council
- Bow Parish Council
- Mid Devon District Council
- Conservation Officer
- Historic England
- NATS
- Natural England
- Environment Agency
- Ecology

Representations: 94 letters of objection

Speakers: Mr R Langley – Objector
Mrs Angela Hawkins – Applicant
Cllr K Whitaker – Spreyton Parish Council

Conclusion:

Members had a detailed debate about all the issues relating to this application including the addendum within the presented report that set out the latest legal position in respect of the Ministerial Statement. Members raised concerns over the greater harm caused to the landscape by the cumulative effect of this application to the landscape and it being industrial development in the countryside.

PLANNING APPLICATION REPORT

Case Officer: Ben Dancer

Ward: Tavistock North

Ward Members: Cllrs N Jory, J Mood, **Page 15** J Eldon

Application No: 00569/2015

Agent/Applicant:

Mr R Page
21 Maynard Park
Bere Alston
Yelverton
PL20 7AR

Applicant:

Ms Irene Chambers
The Round House
Launceston Road
Tavistock

Site Address: Higher Wilminstone Farm, Wilminstone, Tavistock PL19 0JT

Development: Change of use of existing agricultural buildings into self storage units.

Reason item is being put before Committee:

Cllr Sheldon: I am calling this application to Committee on the basis that the residents as outlined in three letters of objection do not agree with Devon County Council Highways as to the suitability of the access road and its potential use. There will also be further loss of amenity as business expands on this site, increasing noise and nuisance to that already suffered from this site by local residents.

Cllr Moody: Given the concerns raised by local nearby residents, the issues of potential highways issues to the site and the past planning history of Higher Wilminstone, I feel it preferable that all the issues related to this application ought to be considered by the Planning and Licensing Committee.

COMMITTEE DECISION: Deferral for site inspection.

The Proposal:

Change of use of former agricultural building into self storage units with associated parking

Consultations:

Tavistock Town Council
Devon County Council Highways Authority
Borough Engineer

Representations: Three letters of representation all objecting to the application.

PLANNING APPLICATION REPORT

Case Officer: James Clements

Ward: Tavistock South West

Ward Members: Cllrs J Evans and G Parker

Application No: 0078/2015

Agent/Applicant:

Mr Michael Gerry
1 Alder Road
Tavistock
PL19 9LW

Site Address: 1 Alder Road, Tavistock, PL19 9LW

Development: Householder retrospective application for erection of boundary wall and fence.

Reason item is being put before Committee:

At the request of Cllr Parker in the interests of transparency. The applicant felt that he had been given inconsistent advice by officers – positive advice led to the submission of the first application which consequently received a decision of refusal.

COMMITTEE DECISION: Approval

Reasons for Approval: Good design, visually attractive, in keeping with existing wall and therefore sympathetic.

The Proposal:

The application is for retrospective planning permission for the erection of a dwarf stone wall (approximately 0.9m in height) and timber fence above (up to 1.9m) to the front and side garden areas of the residential property.

Consultations:

Tavistock Town Council
Devon County Council Highways Authority
Environmental Health
Landscape Officer

Representations: The application was accompanied by 20 letters of support. One further letter of support was received.

Speakers: Mr Michael Gerry – Applicant
Cllr J Evans – Ward Member
Cllr G Parker – Ward Member

Conclusion: The Case Officer outlined the history of the application and the reason for the recommendation of refusal. Members stated that works had been undertaken sympathetically and that the application was complicated by some of the work being permitted development.

***P&L 21 PLANNING APPEALS UPDATE**

The Committee received and noted the updated list of Planning Appeals.

(The Meeting terminated at 12.45 pm)

Dated this

At a Meeting of the **PLANNING & LICENSING COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **15th** day of **SEPTEMBER 2015** at **10.00 am**

Present: Cllr D K A Sellis – Chairman
Cllr M J R Benson – Vice-Chairman
Cllr R E Baldwin Cllr C W G Cann OBE
Cllr C Mott Cllr D E Moyse
Cllr G Parker Cllr T G Pearce
Cllr A Roberts

Substitute: Cllr A Leech for Cllr J Hockridge

Planning Officer (BD)
Planning Officer (NG)
Solicitor (SN)
Senior Case Manager (KT)

In attendance: Cllrs J Evans, J Moody, R Sampson & P Sanders

***P&L 22 APOLOGIES FOR ABSENCE**

An apology for absence was received from Cllr J Hockridge (Substitute: Cllr A Leech).

***P&L 23 DECLARATION OF INTEREST**

Cllr T G Pearce declared a personal interest in all applications by virtue of being on the Management Board of Devon Building Control Partnership. He remained in the meeting throughout and took part in the debate and vote on all items.

***P&L 24 CONFIRMATION OF MINUTES**

The Minutes of the Meeting held on 18 August 2015 (page 1 to the Agenda), were confirmed and signed by the Chairman as a correct record.

***P&L 25 PLANNING, LISTED BUILDING AND ENFORCEMENT REPORTS**

The Committee considered the applications prepared by the Lead Specialist – Development Management and considered also the comments of Town and Parish Councils together with other representations received, which were listed within the presented agenda reports and summarised below, and **RESOLVED:**

PLANNING APPLICATION REPORT

Case Officer: Ben Dancer

Ward: Tavistock North

Ward Members: Cllrs N Jory, J Moody and J Sheldon

Application No: 00569/2015

Agent/Applicant:

Mr R Page
21 Maynard Park
Bere Alston
Yelverton
PL20 7AR

Applicant:

Ms Irene Chambers
The Round House
Launceston Road
Tavistock

Site Address: Higher Wilminstone Farm, Wilminstone, Tavistock PL19 0JT

Development: Change of use of existing agricultural buildings into self storage units.

Reason item is being put before Committee:

Cllr Sheldon: I am calling this application to Committee on the basis that the residents as outlined in three letters of objection do not agree with Devon County Council Highways as to the suitability of the access road and its potential use. There will also be further loss of amenity as business expands on this site, increasing noise and nuisance to that already suffered from this site by local residents.

Cllr Moody: Given the concerns raised by local nearby residents, the issues of potential highways issues to the site and the past planning history of Higher Wilminstone, I feel it preferable that all the issues related to this application ought to be considered by the Planning and Licensing Committee.

COMMITTEE DECISION: Conditional Approval subject to the following conditions:

Conditions

1. Three year time limit
2. Development as per approved plans
3. This permission is for the development area to be used for self-storage only within the use class B8 and for no other purpose within this use class
4. Number of self storage units to be no more than 20
5. Hours of operation to be between 8am to 6pm from Monday to Friday, and 9am to 5pm on Saturdays, with no opening on Sundays and bank holidays
6. No cars to be parked on site overnight
7. No storage beyond the confines of the building
8. Removal of permitted development rights to change use under Schedule 2, Part 3, Class I, Class P and Class V
9. Removal of permitted development rights to change use under Schedule 2, Part 7, Class H
10. The development hereby permitted shall not be brought into use until an Operational and Management Plan has been submitted to and approved in writing by the Local Planning Authority. This plan should include the following:

1. Minimum numbers of storage cells
2. That no distribution use is to take place
3. That no wholesale sales are to take place
4. Means of prevention of storage of hazardous materials
5. Details of activities outside operational hours
6. A noise operational statement
7. A lighting plan and management statement

Officer Updates:

1. Confirmed that there was additional condition (no. 9)
2. Confirmed that planning history had been expanded as requested by Members
3. Confirmed that a definition in planning terms of self-storage was now included in the report

The Proposal:

Change of use of former agricultural building into self storage units with associated parking

Consultations:

Tavistock Town Council
Devon County Council Highways Authority
Borough Engineer

Representations: Three letters of representation all objecting to the application.

Speakers: Mrs Hampton – Representing objectors
Cllr J Moody – Local Ward Member

Conclusion: The Case Officer updated the Committee with a definition of self storage and then responded to a number of questions specific to the application in terms of operating hours, planning history on site and car parking arrangements. The Ward Member expressed the concerns of local residents, however there was no objection from the Highways Officer who outlined how he had come to his conclusions. One Member suggested an additional condition which set out an Operating Management Plan. Following a detailed debate, Members voted to approve the application subject to conditions as set out above.

[NB. Cllr Roberts abstained from the vote on this item as she had not previously heard the full case officer presentation. Although attending as a substitute, Cllr Leech was able to take part in this vote as he had previously heard the full case officer presentation].

PLANNING APPLICATION REPORT

Case Officer: Nicola Glanville

Ward: South Tawton

Ward Member: Cllr W G Cann OBE

Application No: 00633/2015

Agent/Applicant:
Robert H Hicks & Co
Miss C McIntosh
West Hele
Buckland Brewer
Bideford
Devon

Mr Lightfoot
Allison Farm
Spreyton
Crediton
Devon

Site Address: Allison Farm, Spreyton, Crediton, Devon

Development: Retrospective application for the erection of an agricultural building

Reason item is being put before Committee:

The Local Ward Member is presenting this application to Committee in light of the Parish Council decision not to support this application

COMMITTEE DECISION: Conditional Approval subject to the following conditions:

1. Accord with plans
2. Implementation and timing of landscaping proposal
3. Agricultural use – removal if uses ceases
4. Yorkshire boarding to be painted within 30 days of date of Grant of Approval
5. The roof covering to be Eternit Big 6" profile corrugated Farmscape dark grey fibre cement sheets is to be maintained and retained in perpetuity

The Proposal:

The proposal seeks the retention of a general purpose agricultural building which has been erected for livestock use. The barn measures approximately 5.7m in height with a width of 27.4m and a depth of 13.7m.

Consultations:

Parish Council
Devon County Council Highways Authority
Drainage Engineer
Landscape Officer

Speakers: Miss Clare McIntosh – Agent
Cllr W G Cann OBE – Ward Member

Conclusion: The Case Officer outlined the application and responded to questions. The Ward Member proposed a site inspection. Whilst this proposal was seconded, the vote was lost. The Ward Member raised a number of concerns and quoted a letter from the local Parish Council Chairman.

After a detailed debate, Members requested a recorded vote (in accordance with Council Procedure Rule 19(5), the results of which are set out as follows:

To conditionally approve application 00633/2015:

For the Motion: Cllrs Baldwin, Benson, Mott, Parker, Roberts and Sellis
Against the Motion: Cllrs Cann OBE, Leech, Moyse and Pearce.

***P&L 26 PLANNING APPEALS UPDATE**

The Committee received and noted the updated list of Planning Appeals.

(The Meeting terminated at 12.45 pm)

Dated this

Chairman

This page is intentionally left blank

At a Meeting of the **OVERVIEW & SCRUTINY (INTERNAL) COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **21st** day of **JULY 2015** at **2.00 pm**.

Present:

Cllr C R Musgrave – Chairman
Cllr J Yelland – Vice-Chairman
Cllr M Davies
Cllr J Evans
Cllr P Kimber
Cllr C Mott
Cllr D K A Sellis
Cllr C Edmonds
Cllr L J G Hockridge
Cllr J R McInnes
Cllr D E Moyse

Head of Paid Service
Executive Director (Service Delivery and
Commercial Development)
Group Manager – Customer First
S151 Officer
Senior Specialist – Democratic Services

Also in Attendance:

Cllrs D W Cloke, G Parker, T G Pearce and J
Sheldon

***O&S(I) 10 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Cllr J B Moody, who had been invited to attend this meeting in his capacity as the lead Hub Committee Member for Customer First and Cllr K Ball, who had been invited to attend in his capacity as Chairman of the Member Development Steering Group.

***O&S(I) 11 CONFIRMATION OF MINUTES**

The minutes of the Meeting held on 9 June 2015 were confirmed and signed by the Chairman as a correct record.

***O&S(I) 12 DECLARATIONS OF INTEREST**

Members and officers were asked to declare any interests in the items of business to be considered during the course of this meeting, but there were none made.

***O&S(I) 13 COMMITTEE TERMS OF REFERENCE**

Further to the request made by the Committee at its last meeting to streamline its terms of reference (Minute O&S(I) 3 refers), an updated version had been presented to the meeting.

In discussion, the Committee expressed its support for the revised version and felt it would be useful for these to be included with the published agenda for future meetings.

It was then:

RESOLVED

That the streamlined version of the draft terms of reference be noted.

***O&S(I) 14 PUBLIC FORUM**

It was noted that no issues were raised in accordance with the Public Forum.

***O&S(I) 15 HUB COMMITTEE FORWARD PLAN**

The most recent (published 16 July 2015) Hub Committee Forward Plan was presented for consideration.

In general discussion, Members acknowledged that there were a number of overlaps in the roles of the lead Hub Committee Members. For clarity, Members were informed that Cllr Parker's portfolio area was 'Our Plan and Strategic Housing' whilst Cllr Moody's area of responsibility included Planning.

Medium Term Financial Strategy 2016/17 Onwards

The S151 Officer attended the meeting to provide an update on the 'Medium Term Financial Strategy 2016/17 Onwards' agenda item that was due to be presented to the Hub Committee meeting on 22 September 2015.

In discussion on this item, reference was made to:-

- (a) the recent budget announcement by the Chancellor. Whilst unconfirmed, the S151 Officer advised that the anticipated grant reductions from central government may be phased over a slightly longer period than had been initially anticipated, but details of this would not be known until the Chancellor had issued the Autumn Statement later in the year. Officers informed the Committee that modelling work would be undertaken in the next few weeks to assess various scenarios;
- (b) the living wage being increased to £7.20 per hour from April 2016. A Member expressed his concern at the Chancellor's seemingly contradictory announcements whereby the living wage would dramatically increase yet other public sector wage increases would be restricted to 1% per year. In reply, it was noted that the Local Government Association was aware of the implications and would be lobbying central government accordingly;
- (c) the draft Statement of Accounts for 2014/15. Members were advised that the draft Statement would be presented to the Audit Committee meeting on 28 July 2015 and it indicated a budget underspend of £70,000 for 2014/15;

- (d) a summary of the Medium Term Financial Strategy. In light of Member interest, the Committee requested that the S151 Officer present a summary of the Financial Strategy to the next Committee meeting on 6 October 2015.

It was then:

RESOLVED

1. That the Forward Plan be noted; and
2. That a summary of the 2016/17 Medium Term Financial Strategy be scheduled on to the annual work programme for the next Committee meeting.

***O&S(I) 16 CUSTOMER FIRST UPDATE**

At the request of the Committee Chairman, the Group Manager – Customer First was in attendance to provide an update on the service areas which were contained within Customer First.

In so doing, reference was made to:-

- (a) Customer Services. With the aid of a paper outlining performance comparisons for 2014-15, the Group Manager commented that she was of the view that Customer Services had now turned a corner and overall performance was improving. The paper also highlighted that:
- o call volumes had dramatically increased (by 12%), largely as a consequence of the service now receiving the Development Management Service telephone calls;
 - o one third of staff were currently temporary and in training;
 - o 70% of calls were being answered, with 35% of these being answered within 20 seconds. However, 30% of callers were also experiencing a greater than 7 minute wait to have their call answered;
 - o the self-service portal on the website was absolutely critical to the effectiveness of the service. Once it was in place and operational, more customers would be able to self-serve and therefore the number of calls into the Council would be reduced.

In the drive to reduce instances of failure demand, officers informed that such calls had recently started to be logged and this was seen to be a key workstream for Customer Services.

Some Members expressed their concerns that 30% of calls were not being answered.

To address the capacity issues in Customer Services, officers were currently seeking the approval of the HR Panel to increase the staff numbers in this area by 3 full time equivalent posts.

When informed that officers did signpost customers to other agencies and the website (where appropriate), some Members felt that there was scope to also direct callers to 'My Devon' which was a service provided by Devon County Council. In response, officers confirmed that they would follow this matter up and report back in due course.

Whilst still in its infancy, there was a general appreciation for the initiative whereby a Member Direct Dial telephone number into the Council had been established for the exclusive use of Members.

- (b) **Locality Working.** It was noted that the locality model had got off to a good start and there had already been a number of instances of success stories.

With regard to locality officers attending a meeting of each town and parish council to introduce themselves, a Member felt it to be regrettable that this was not going to happen as a matter of course. Following a lengthy debate, officers informed that locality officers would be in attendance during the Town and Parish Council Event on 1 September 2015 and they would also give more consideration to the issue of raising their profile amongst the town and parish councils;

- (c) **Housing Advice and Housing Benefits.** The Committee was advised that whilst both services were performing reasonably well, the Transformation Programme Phase 2 recruitment process was likely to have a significant impact in the upcoming months;
- (d) **Council Tax.** In light of the backlog of work increasing, Members were informed that the service was focusing on its newest work to ensure that the backlog did not increase further. Due to the sheer volume of work, officers stated that some staff were working weekends in an attempt to reduce the backlog;
- (e) **Business Rates.** There were no service issues identified in respect of Business Rates;
- (f) **Planning.** Whilst there would not be a qualified planning officer in the Okehampton Drop-in office for four weeks during the summer, there would be an officer on site who had extensive experience of working within the planning department. As a consequence, officers were confident that she would be able to deal with the bulk of planning queries raised.

The Committee noted that the number of planning applications received remained fairly constant, but there were 76 which still awaited processing. Planning advice related work had now been transferred to Follaton House, Totnes and planning staff were also working additional hours to deal with the current workload. To also help with the volume of work, the councils had now successfully recruited four new permanent planning officers and were still using Plymouth City Council to help with the registering of planning applications.

Members felt that the average time taken to register planning applications was far too long and this view was acknowledged by officers, who commented that their current focus was on the front end of the planning process.

- (g) Planning Enforcement. There were currently 191 live enforcement cases in the Borough and these were being picked up by shared officers, who would ultimately be supported (once trained) by the locality officers. Officers informed that this number was constant with the number of live cases back in 2012. A Member queried this point and expressed his view that the number of enforcement issues were on the increase and the figures were only constant in light of the amount of cases which had run out of time and had therefore dropped off the system;
- (h) Assets. The Assets service was still in the process of recruiting and, in addition to its already hefty workload, was also supporting the leisure centre procurement exercise;
- (i) Environmental Health. The Committee was notified that the software migration exercise was now complete;
- (j) Customer First vacancies. For clarity, the Group Manager stated that there were currently 15 vacancies in the Customer First service;
- (k) the administrative base for the Programme being located at Follaton House. Whilst accepting that this decision was taken by the previous council, some Members wished to put on record their concerns at the implications of this decision and the consequent lack of fixed base staff who were located at Kilworthy Park. In response, the Head of Paid Services made reference to the agile working agenda being an underpinning principle of the Programme and it being his ethos that it did not matter where officers were situated and it was more crucial that the work was being completed and to a good standard. Furthermore, if the Council took the decision to revisit where the administrative base was located, then this would have significant budgetary implications on both the Programme and the Council;

(l) Customer Satisfaction. As part of the Task and Finish Group review into performance measures, it was felt that the way that the Council obtained its customer's views would be absolutely critical;

(m) the Committee Work Programme. In light of Members not wishing to lose sight of the performance of Customer Services and the Development Management Service, it was requested that updates be scheduled on to the next meeting agenda on 6 October 2015.

It was then:

RESOLVED

That the Customer First update be noted.

***O&S(I) 17 UPDATE ON TRANSFORMATION PROGRAMME T18**

The Committee was presented with the T18 Budget Monitoring Report – Q4 2014/15, which had also been considered by the Hub Committee at its meeting on 14 July 2015 (Minute HC 9 also refers).

The Executive Director (Service Delivery and Commercial Services) presented the report and in particular directed Members to the comments related to the following T18 workstreams: HR, IT, Finance and Accommodation. In so doing, the Executive Director emphasised the headline message whereby the Transformation Programme was both on time and within the agreed budget.

In the ensuing debate, specific reference was made to:-

- the high level transition plan for phase 1(b). In response to a query regarding the timeline, it was agreed that this would be attached to these minutes (Appendix A refers). When questioned, officers informed that the timeline for the planning portal was towards the end of the programme due to the much longer test time period prior to it being launched;
- the Civica mobile application. In reply to a query, officers confirmed that they would find out when exactly the Civica mobile application would be available and let Members know accordingly.

***O&S(I) 18 MEMBER DEVELOPMENT STEERING GROUP NOTES – 6 JULY 2015 MEETING**

The Committee was presented with the notes arising from the Member Development Steering Group meeting held on 6 July 2015.

In discussion, the following points were raised:-

- (a) the importance of continual learning and development opportunities for Members was emphasised. It was also recognised that ongoing learning and development added value to Members; the Council; and West Devon residents;
- (b) Once the Induction questionnaire had been compiled and circulated, Members were encouraged to fill it in;
- (c) The importance of arranging ongoing planning training for Members and designing sessions which were interactive and engaging was stressed;
- (d) In line with the Modern Gov. IT rollout, officers gave assurances that extensive training would be arranged and support would be readily available for Members to help them through this transition.

It was then:

RESOLVED

That the notes arising from the recent Member Development Steering Group meeting be received and noted.

***O&S(I) 19 TASK AND FINISH GROUP UPDATES**

(a) Performance Management

The Panel was informed that the first meeting of the Group had been arranged to take place on Monday, 3 August 2015.

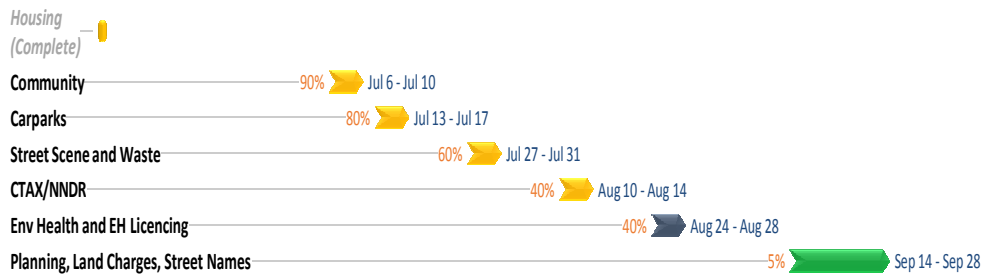
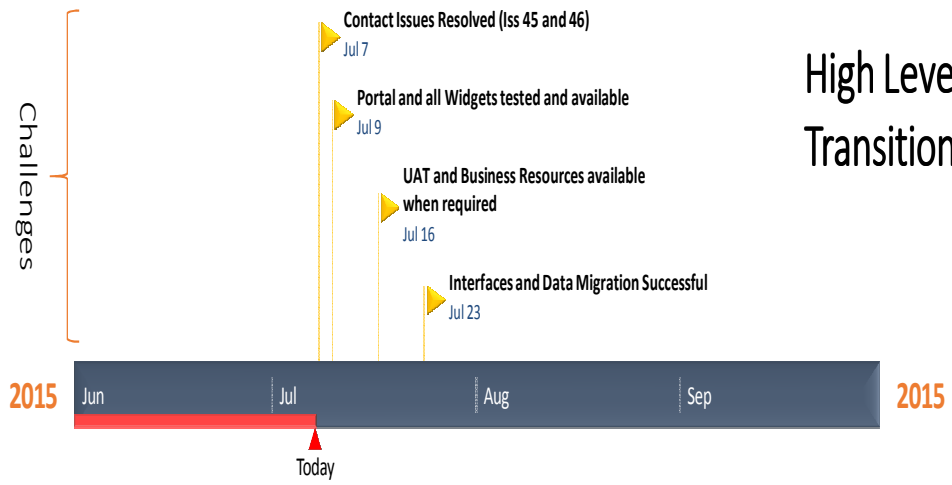
***O&S(I) 20 DRAFT WORK PROGRAMME 2015/16**

The Committee considered its draft 2015/16 Work Programme (as circulated with the published agenda) and made reference to the addition of the Medium Term Financial Strategy summary paper being presented to the next Committee meeting on 6 October 2015.

(The meeting terminated at 3.30 pm)

Appendix A

High Level 1b Transition Plan



At a Meeting of the **AUDIT COMMITTEE** held in the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **28th** day of **JULY 2015** at **10.00 am**.

Present: Cllr M Davies (Chairman)

Cllr B Stephens

Cllr L Watts

Substitutes: Cllr W G Cann & J Yelland

Finance Community of Practice Lead
Representative of Devon Audit Partnership
Finance Business Partner (AW)
Monitoring Officer
Case Managers, Strategy & Commissioning

In attendance: Cllrs K Ball, M J R Benson and T G Pearce

***AC 7 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Cllr N Jory (for whom Cllr J Yelland acted as substitute) and Cllr J B Moody (for whom Cllr Cann acted as substitute).

***AC 8 CONFIRMATION OF MINUTES**

The Minutes of the Meeting held on 7th July 2015 were confirmed and signed by the Chairman as a correct record.

***AC 9 DRAFT STATEMENT OF ACCOUNTS 2014/2015**

The s151 Officer introduced the Draft Statement of Accounts 2014/15. In so doing, the officer stated that there was a £70,000 under spend for 2014/15 which had been added to the General Fund Reserve. There was also funding from Central Government of £266,000 towards the upfront investment costs of the Transformation Programme. The pension liability had been increased by £4.5 million. Capital spending was £473,058. In her concluding comments, the officer stated that Council finances remained strong.

Arising from discussions thereon:

1. It was confirmed that business rate debt was accrued over the last 3 years; however some instalment payment plans were over more than 12 months. West Devon's total business rate collection rate was 98.3% compared to the national average of 98.1%.
2. A Member questioned whether Tavistock Business Centre's new replacement boiler should be considered revenue expenditure. In reply, officers were informed that since a near exact replacement boiler was purchased, then this had to be considered as revenue expenditure. In addition, there were very strict rules on what could be classified as capital expenditure by local authorities.

3. It was noted that 94% of invoices were paid within 30 days of receipt. In addition, a further 3% were paid within 30-39 days.
4. The Committee was informed that the Council had paid monies to South Hams District Council towards contributions for the IT contract, agency workers & iESE recruitment work as well as employment costs for shared officers. Officers confirmed that South Hams made similar contributions to the Council in regard to employment costs arising from shared officers and exit packages.

It was **RESOLVED** that the Draft Statement of Accounts, together with the technical appendix for the financial year ended 31 March 2015 be noted.

***AC 10**

DRAFT ANNUAL GOVERNANCE STATEMENT 2014/2015

The Council's s151 Officer introduced the Draft Annual Governance Statement and took Members through the Assurance Framework. In her presentation, the officer reminded Members that the Council remained in the Business Rates Pool, although South Hams had come out for 2015/16 due to risk arising from business rate appeals.

It was **RESOLVED** that:

1. The processes adopted for the production of the 2014/15 Annual Governance Statement be noted;
2. The Adequacy and effectiveness of the system of internal audit be endorsed; and
3. Members have considered the draft Annual Governance Statement (AGS) for 2014/15 and the supporting evidence provided by the presented agenda report and that the AGS be approved prior to the signature by the Leader of the Council and the Executive Director (Strategy and Commissioning).

AC 11

CONTRACT PROCEDURE RULES

The Monitoring Officer introduced the Contract Procedure Rules and explained the need for technical changes to be made to ensure transparency.

It was **RESOLVED** that the Committee has reviewed the update version of the Contract Procedure Rules and the Council be **RECOMMENDED** to approve the revised Rules for inclusion in the Council's Constitution.

***AC 12**

COMMITTEE CONCLUDING COMMENTS

Prior to closing the meeting, Members wished to put on record their gratitude to the s151 Officer and her team for all their work.

(The Meeting terminated at 10.55 am)

This page is intentionally left blank

At a Meeting of the **HUB COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **22nd** day of **SEPTEMBER 2015** at **2.00pm**

Present:

	Cllr P R Sanders – Chairman
	Cllr R E Baldwin – Vice-Chairman
Cllr M J R Benson	Cllr W G Cann OBE
Cllr R J Oxborough	Cllr G Parker
Cllr R F D Sampson	Cllr L Samuel

In attendance:

- Executive Director (Strategy and Commissioning)
- Executive Director (Service Delivery and Commercial Development)
- Lead Specialist – Place and Strategy
- Lead Specialist – Housing, Revenues & Benefits
- Place and Strategy Specialist
- Group Manager Customer First
- Group Manager Support Services
- S151 Officer
- Senior Case Manager

Other Members in attendance:

Cllrs D Cloke; C Edmonds; J Evans; T Leech; D Moyse; R Musgrave; T G Pearce and B Stephens

***HC11** **APOLOGIES FOR ABSENCE**
Apologies were received from Cllr J B Moody.

***HC 12** **DECLARATIONS OF INTEREST**
Members were invited to declare any interests in the items of business to be discussed and the following were made:

Cllr R J Oxborough declared a disclosable pecuniary interest in Item 6 'Business Development – Discretionary Rate Relief' (Minute HC 15 below refers) by virtue of being a business owner himself and he left the meeting for the duration of this item.

***HC 13** **URGENT BUSINESS**
The Chairman advised that in view of concerns about the level and quality of service, specifically in the Customer Contact Centre and Planning, discussions had taken place with the Executive Directors. Members had been aware that service levels could suffer with the transition to new ways of working, however, issues were now being raised at Parish Council meetings with Borough Councillors.

The Executive Director (Service Delivery and Commercial Development) thanked Members for the opportunity to set out the latest position and advised that there had been a dip in service in two key areas. She set out the recruitment position for staff into the Customer Contact Centre, and plans to consider temporarily outsourcing Revenue and Benefits calls. There had been an increase overall in the number of calls received into the Customer Contact Centre, caused by failure demand in other areas. Assurances were given that once new ways of working were fully implemented this demand would be addressed. The main issues were at the validation stage, and this would not be an issue once the full complement of 'Planning qualified' Case Managers were in post. Of four vacancies, one and a half had now been filled. Discussions were being held with external companies in terms of supporting the Council temporarily with validation requests, enforcement and land charges. A plan was in place, and the ability to use additional resource would help dramatically and be of direct benefit.

The Executive Director (Strategy and Commissioning) apologised to Members for the difficulties they were experiencing when attending Parish Council meetings. The changing ways of working and changing IT systems were always going to cause difficulties but definite plans were in place and both Leaders were prepared to support through additional finance.

The Leader stated that both he and the Leader of South Hams District Council were prepared to look at additional resource but it would be a Council decision. However the current situation could not continue and clearing the backlog of work was the issue. He also wanted to make absolutely certain that it was understood that the current difficulties were in no way a reflection on or criticism of staff who were working incredibly hard, over long hours in difficult areas.

The Executive Directors then responded to a number of queries from Members. Members also wished to echo the Leader in stating that the staff were appreciated and the current problems were in no way a criticism of them.

HC 14

OUR PLAN UPDATE

The Portfolio Holder for Our Plan and Strategic Planning presented a report that updated Members on the status of Our Plan and made recommendations for next steps. It highlighted responses to the Our Plan public consultation that took place in the spring and set these in a regional and national context of significant change over the last 6 months.

He then responded to a number of detailed questions regarding the recommendations contained within the report.

It was then **RECOMMENDED** that Council be **RECOMMENDED** that:

1. Option 2 for progression of Our Plan, as set out at paragraph 4 of the presented agenda report, be pursued recognising that this will need an extended plan period to 2032 or 2033;
2. A detailed Duty to Co-operate protocol, or similar agreement, be established with neighbouring planning authorities within the Housing Market Area. This would address joint approaches to strategic planning relating to timetable, evidence, policies, strategic allocations, governance, staffing, scope of Housing Market Area, viability and infrastructure amongst other matters;
3. The Local Development Scheme be reviewed and re-issued in line with recommendation 1;
4. That further evidence work (joint or specific) be procured as required;
5. That a budget provision for 2016/17 of £75,000 be made for Our Plan, which will be a cost pressure built into the Council's Medium Term Financial Plan for 2016/17 onwards;
6. That a Settlement Boundary Policy be considered for incorporation in future versions of Our Plan and necessary preparatory work be undertaken to allow for this option;
7. That it be agreed that a World Heritage Site Supplementary Planning Document (SPD) be pursued in line with existing and proposed development plan policies;
8. That a further "Call for Sites" be initiated;
9. That site OP16 at Brook Lane, Tavistock be agreed to be deleted from future versions of Our Plan;
10. That Guidance for Neighbourhood Plan Groups be issued to inform their work as it relates to Our Plan;
11. That a refreshed Our Plan Engagement Strategy be issued;
12. That regular Member update sessions be timetabled;
13. That a further report be submitted to Hub Committee and Council making specific proposals for future consultation, consideration and submission of Our Plan; and
14. Those specific details to be agreed under recommendations 2,3,4,5,6,7,8,9,10 and 11 be delegated to the Lead Specialist – Place and Strategy in consultation with the lead Hub Committee Member and the Leader of Council.

HC 15

BUSINESS DEVELOPMENT – DISCRETIONARY RATE RELIEF

The Deputy Leader presented a report that recommended to Council that the Borough Council utilise its powers to apply discretionary business rate relief. The purpose of these new powers was to give billing authorities the ability and scope to encourage, sustain and improve local economic performance by temporarily lowering the business rate burden while local businesses grew and created significant additional employment within the Borough.

Members had a detailed debate on this item, including how the proposed policy differed from the existing Rate Relief Panel. During discussion, it was confirmed that reference in the presented report to the Overview and Scrutiny Committee chairman as a substitute Member of the business rate relief decision panel should state the Overview and Scrutiny (External) Committee. Members also discussed amending specific points within presented Appendix one, however these proposed amendments fell as there was not sufficient support.

It was then **RECOMMENDED** that Council be **RECOMMENDED** to:

- a) to offer local businesses discretionary business rate relief where it is in the interest of local Council tax payers to do so;
- b) to ratify a new discretionary business rate relief policy as detailed within Appendix one and approve the rate relief application form as shown in Appendix two attached to this report;
- c) to agree the formation of a discretionary business rate relief decision panel, who will appraise and determine applications on an as-needs basis as set out in paragraph 1.6 of this report;
- d) to delegate authority to the Group Manager, Business Development in consultation with the Deputy Leader of West Devon Borough Council to make minor legal amendments to the Policy shown in Appendix one prior to it being published and adopted as appropriate;
- e) to review the policy after one year; and
- f) to refer decisions made by the panel to the Audit Committee.

HC 16

COUNCIL TAX DISCRETIONARY DISCOUNT AND REDUCTION POLICY

The Portfolio Holder for Health and Wellbeing presented a report that set out how the Council could use its discretionary powers to assist persons liable for Council Tax who are facing extreme hardship or distress. The report presented a new policy which incorporated these powers with the Exceptional Hardship Fund which specifically provided additional support to customers in receipt of Council Tax reduction. This would allow all applications for assistance with Council Tax to be considered under one framework and would ensure all applicants are treated consistently and fairly.

It was then **RECOMMENDED** that Council be **RECOMMENDED** to approve the combined Council Tax Discretionary Discount & Reduction Policy.

HC 17

DEVON HOME CHOICE & LOCAL ALLOCATIONS POLICY REVIEW

The Lead Specialist Housing, Revenue and Benefits presented a report that reviewed the existing arrangements for Devon Home Choice – the Authority’s current model of allocating affordable housing in the borough. The report included a summary of the experiences of other authorities who had made significant changes locally to the Devon Home Choice Policy and set out the reasons for the recommendations going forward.

There was some discussion regarding the example presented in the report of the policy adopted by another Council to remove Band E residents from the list. Whilst not all Members agreed with this way forward, it was noted that officers should look at alternatives to Devon Home Choice in time for the next annual review.

It was then **RESOLVED**:

- a) that the content and findings of the report be noted

to **RECOMMEND** to Council to:

- b) remain in the Devon Home Choice Partnership and review again in twelve months time; and
- c) make no changes at this time to the West Devon Borough Council Local Allocation Policy and review again in twelve months time.

HC 18

PLANNING OBLIGATIONS REPORT

The Portfolio Holder for Our Plan and Strategic Planning presented a report that sought to revoke the interim planning obligations decision agreed at full Council on 17 February 2015.

Members discussed the report and particularly the effective date of the decision.

It was then **RECOMMENDED** that Council be **RECOMMENDED** to revoke the interim planning obligations decision agreed at full Council on 17 February 2015.

HC 19

HEALTH AND SAFETY MANAGEMENT

The Executive Director (Strategy and Commissioning) presented a report that sought acceptance of the Health and Safety Statement of Policy and recommend that the Statement of Policy be reviewed and signed annually on the occasion of the Annual Council Meeting.

During discussion the Members confirmed that the policy, whilst not specific to West Devon Borough Council, was acceptable, as it related to staff working across both Councils.

The Chairman commented that whilst it was important to have policies in place, it was more important that the culture of an organisation reflected the commitment to working in a healthy and safe manner.

It was then **RECOMMENDED** that Council be **RECOMMENDED**:

- a) that the Health and Safety Statement of Policy is accepted and signed by the Head of Paid Service and the Leader of the Council; and
- b) that the Health and Safety Statement of Policy is reviewed and signed annually on the occasion of the Annual Council Meeting.

HC 20

JOINT DATA PROTECTION POLICY

The Portfolio Holder for Resources and Performance presented a report that brought a revised Joint Data Protection Policy for approval. The Policy had been drafted to support the Council's T18 ways of working.

It was then **RECOMMENDED** that Council be **RECOMMENDED**:

1. to approve the Joint Data Protection Policy attached at Appendix A to the presented report and supporting Codes of Practice and documentation; and
2. to delegate to the Monitoring Officer to make minor amendments

***HC 21**

WRITE OFF REPORT

The Portfolio Holder for Health and Wellbeing introduced a report that informed Members of the debt written off for revenue streams within the Revenue and Benefits service. Debts up to the value of £5,000 were written off by the s151 Officer under delegated authority. Permission was sought to write off individual debts with a value of more than £5,000.

It was then **RESOLVED** that:

1. The write off by the s151 Officer of individual West Devon Borough Council debts totalling £65,532.49, as detailed in Tables 1 and 2 of the presented report, be noted; and
2. The write off of individual debts in excess of £5,000, totalling £25,244.26 as detailed in Table 3 of the presented report be approved.

At the conclusion of this item, the Executive Director (Strategy and Commissioning) advised Members that the external auditors, Grant Thornton, had issued an unqualified opinion in respect of the accounts and acknowledged the hard work of the shared finance team. Members congratulated the s151 Officer on an excellent job and asked that thanks to her and her team be noted.

(The Meeting terminated at 4.30 pm)

Dated this

Chairman

This page is intentionally left blank

Report to: **Full Council**
Date: **29 September 2015**
Title: **PLANNING OBLIGATIONS THRESHOLDS**
Portfolio Area: **Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee:

Urgent Decision: **Y** Approval and clearance obtained: **Y**

Date next steps can be taken:
(e.g. referral on of recommendation or implementation of substantive decision)

Author: **Alex Rehaag** Role: **Place & Strategy Specialist**

Contact: arehaag@swdevon.gov.uk **01822 813722**

Recommendations:

That Members agree to revoke the interim planning obligations decision agreed at full Council on 17 February 2015.

1. Executive summary

On 28 November 2014, the government announced changes by way of a Ministerial Statement to national planning policy with regard to affordable housing thresholds and other tariff style contributions such as open space. This resulted in the authority being unable to collect commuted sums or on site provision where 10 units or less of housing was proposed. A lower threshold of 6 units or more could be implemented for authorities whose boundaries covered Designated Rural Areas, National Parks and Areas of Outstanding Natural Beauty (AONB).

At the full council meeting on the 17th February 2015 the proposal to adopt and implement the lower threshold of 6 or 10 units was agreed. (Report attached)

Subsequently on the 31st July 2015 the government's decision to implement the change in policy was quashed by the High Court. This followed a successful legal challenge by Reading and West Berkshire Councils. West Devon Borough Council provided letters of support to Reading and West Berks in their legal challenge. This legal challenge resulted in paragraphs 012-023 of the guidance on planning obligations being removed. The Judgement is available under R (on the application of West Berkshire District Council and Reading Borough Council) v Secretary of State for Communities and Local Government [2015] EWHC 2222 (Admin). (available on the Council website or on request from Member Services).

We are therefore seeking to revoke the interim policy which members adopted on 17th February 2015 and to revert back to the adopted policy in the Core Strategy (SP9) and the accompanying Affordable Housing Code of Practice. This will allow West Devon Borough Council to collect contributions on any residential developments, subject to viability. There are exceptions within SP9 where a contribution will not be sought and these are detailed below:

- Developments of 100% Affordable Housing
- Wholly flatted developments up to and including 9 units or more
- Developments with a condition limiting the use of the dwellings on that development so that they are not available for market sale or rent, to include agricultural dwellings and holiday lets
- Replacement dwellings or conversions, which do not provide additional residential units, unless the nature of such dwelling differs significantly from what they are replacing. The Borough Council will determine what constitutes a significant change but examples may include flats being replaced by houses or a dwelling which is much larger than the original unit.
- Hostels, educational establishments with accommodation directly linked to educational facilities on site and residential care/nursing homes.

Viability

If an applicant feels that the project is not viable to pay an affordable housing contribution, even in the case of a single dwelling, the application should not be registered until this information is received as per the validation checklist which applicants should adhere to.

It is unclear whether further changes around tariff style contributions will be re-introduced in the future. The government could decide to appeal the West Berks decision or reintroduce by new statutory provisions at a later stage. If there are future changes introduced by the government through an appeal or new policy members will be updated and we will look at addressing this through the emerging "Our Plan".

Clearly, the introduction of the higher thresholds has had a negative impact on the Council's ability to deliver affordable housing, either through financial contributions or on-site delivery. As such, there is a need to revoke the previous decision and return to the policy provisions as set out in the Core Strategy and in particular policy SP9.

2. Background

1) What's the issue?

On 28 November 2014 the government issued a ministerial statement with regard to planning obligations. It stated that tariff style obligations could not be sought on small scale developments of 10 units or less. The National Planning Practice Guidance (NPPG) was updated to reflect this.

There were exceptions to the over 10 threshold if the authority falls within a Designated Rural Area, Area of Outstanding Natural Beauty or a National Park. If an authority chose to, it could adopt a lower threshold of 6 units or more. In West Devon the lower threshold could be applied everywhere except the parishes of Tavistock and Okehampton unless a proposal for the Tavistock area falls within the AONB.

The Authority additionally could ask for contributions where the floor space of the proposed development exceeded 1000m².

Members adopted the lower threshold of 6 or 10 units or more on the 17th February 2015 which meant that contributions to affordable housing and sport and recreation could be made where developments on a scale of 6 units or more were proposed, or more than 10 units in the non-rural areas.

2) Why does the Council need to take action and why now?

The grant regime for affordable housing has reduced significantly over the last few years. The Section 106 contributions for affordable housing that we previously collected from developers are used to help to deliver affordable housing schemes in the absence of public sector funding. Schemes such as this may not be feasible without financial support from the local authority. Therefore the ability to be able to collect contributions on the basis of the adopted policy (SP9) provides us with more opportunity to collect funds to support affordable housing delivery across the Borough.

Dartmoor National Park Authority agreed to rescind their interim policy which was implemented by their members on the 9th January to ensure that they had the ability to meet affordable housing need within their area. Cornwall Council has also reverted to their previous policy. A number of other rural councils have and will be considering this to ensure delivery of affordable housing.

How does this fit in with national or Council policy/priorities? Who does the issue affect (communities, services, partners etc)?

The NPPG has removed paragraphs 0012 – 0023 and therefore the policy basis for affordable housing contributions returns to the adopted Core Strategy and Affordable Housing Code of Practice.

The Council has a corporate priority to deliver homes including much needed affordable housing for those applicants that are currently on the Devon Home Choice register.

If we do not revert to the Core Strategy policy and Affordable Housing Code of Practice, our communities and partners are missing out on affordable housing within their area. There is an acute need for affordable housing throughout the Borough. The changes to the grant regime have resulted in these contributions being invaluable in order to deliver projects.

3. Outcomes/outputs

Subject to Member approval, the ability to collect affordable housing contributions in line with adopted policy will be reintroduced with immediate effect.

The contributions are monitored by the Place & Strategy Community of Practice, use of these funds are agreed by members in order to allocate to bring forward specific housing projects.

There is an acute shortage of affordable housing across the UK, and West Devon is no different. By revoking the policy and returning to the previous thresholds, this will help to address the needs of our rural communities.

Providing timescales for members to see results will be difficult as this is dependent on planning applications being approved, schemes being viable, the properties being developed, projects identified and the money being paid to the council. Regular reports on the amount of commuted sums held can be provided.

4. Options available and consideration of risk

1. To continue to apply the threshold of 6 or 10 units or more but the Council would potentially lose contributions over a period of time. Whilst the lower threshold has been used, WDBC has managed to secure £80,000 towards the delivery of affordable housing. Risk: the Council are not acting within the confines of adopted policy and are jeopardising the delivery of affordable housing needs.

2. Revert back to policy SP9 and the Affordable Housing Code of Practice as the basis for requiring contributions to affordable housing. The current balance of funds available to support affordable housing is £213k.
Risk: this poses the least risk as it is simply returning to our adopted policy basis which has been tested at independent examination.
3. There is always a risk that developers/agents/householders may submit an application to try to circumvent policy in avoiding payment of contributions. However this is addressed in the planning process.
4. The government may ask for leave to appeal this decision although the information acquired so far does not seem to substantiate this. If the government or High Courts make any changes then members will be informed.

5. Proposed Way Forward

Members agree to rescind the decision of the 17th February and agree that the Core Strategy Policy SP9 and Affordable Housing Code of Practice remain the basis for requiring contributions towards affordable housing until such time as replaced by Our Plan or other adopted policy. This fits with West Devon's adopted policies and the corporate priority to deliver homes including affordable housing for applicants in the Borough who are on the Devon Home Choice Register.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The legal implications are set out in detail throughout the report but are particularly detailed in Sections 1 and 2. Legal advice has been sought throughout and when drafting this report.

Financial	Y	The financial position and risks are highlighted throughout the report in particular in section 4 where the risk and amount of contributions potentially not collecting is discussed.
Risk		The risks are detailed throughout the report but particular reference can be made to section 4. Discussions have taken place with SLT and Legal with regard to the risks and they have been captured throughout the report.
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	No issues identified
Safeguarding	N	No issues identified.
Community Safety, Crime and Disorder	None	No issues identified
Health, Safety and Wellbeing	None	Maximise housing available to meet the need.
Other implications	None	None.

Supporting Information

Appendices:

A: Council Report – 17 February 2015; and
B: Affordable Housing Code of Practice.

Background Papers:

Reading and West Berkshire Judgement

Process checklist	Completed
Portfolio Holder briefed	Yes
SLT Rep briefed	Yes
Relevant Exec Director sign off (draft)	Yes/No
Data protection issues considered	Yes
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	Yes/No

NAME OF COMMITTEE	Council
DATE	17 February 2015
REPORT TITLE	Planning Obligation Thresholds
Report of	Affordable Housing Manager and Natural Environment and Recreation Manager and Development Manager
WARDS AFFECTED	All

Summary of report:

This report responds to a change in government policy on the use of S.106 obligations introduced through a Ministerial Statement published on the 28th of November 2014. The policy states that affordable housing and tariff-style contributions should not be sought on developments of 10 houses or less. A lower threshold of five units or less may be adopted by certain Local Planning authorities; however, only off site commuted sum financial contributions may be sought on schemes of 6-10 units. Exception sites are not affected by the change.

In response to this new policy, it is proposed that the Council adopts an interim planning contributions threshold consistent with the Ministerial statement and updated National Planning Practice Guidance (NPPG). This interim threshold will be reviewed prior to the submission of the new Local Plan (Our Plan).

RECOMMENDATIONS:

The Council resolves that;

- I. The following thresholds for affordable housing are adopted in respect of new applications for planning permission;
 - a) In Tavistock and Okehampton (the towns), the Council will seek 'on site' provision of affordable housing on developments of 11 units or more unless the site lies within an Area of Outstanding Natural Beauty (AONB).
 - b) In the rural areas of West Devon and Areas of Outstanding Natural Beauty (AONB) (excluding Dartmoor National Park) , the Council will seek a financial contribution from developments of between 6 – 10 units and

'on site' provision of affordable housing on developments off 11 units or more.

- II. The following thresholds for tariff - style infrastructure are adopted in respect of new applications for planning permission;
 - a) In Tavistock and Okehampton (the towns), the Council will seek contributions on developments of 11 units or more unless the site lies within an Area of Outstanding Natural Beauty (AONB).
 - b) In the rural areas of West Devon and Areas of Outstanding Natural Beauty (AONB) (excluding Dartmoor National Park) , the Council will seek a financial contribution from developments of between 6 – 10 units and above.
- III. The interim threshold will be reviewed prior to the submission of the new Local Plan.

Officer contact:

Liam Reading – Affordable Housing Manager. Liam.reading@southhams.gov.uk
Tel: (01803) 861306

Malcolm Elliott – Development Manager – Malcolm.elliott@swdevon.gov.uk
Tel: (01803) 861442

Ross Kennerley – Natural Environment and Recreation Manager.
ross.kennerley@swdevon.gov.uk (01803) 861379

1. Introduction

- 1.1 The purpose of this report is to seek approval for new thresholds for Affordable Housing and other s.106 “tariff style” contributions consistent with updated National Planning Practice Guidance (NPPG). The other s.106 contributions that are considered to be “tariff style” may include certain contributions aimed at securing infrastructure improvements Borough wide.

2. BACKGROUND

Current Affordable Housing Policy

- 2.1 The Council adopted the LDF Core Strategy in 2011. The document established the Council’s planning policy for affordable housing including targets and thresholds above which affordable housing would be sought. The relevant policies are SP9 set out below.

Strategic Policy 9 - Meeting Housing Needs

Throughout the area of West Devon covered by this Core Strategy all housing development will be expected to contribute to meeting the targets for affordable housing set out below, subject to viability.

- *On sites of 1-4 dwellings, excluding wholly flatted developments, a 15% off site financial*
- *contribution per dwelling will be required;*
- *On sites of 5-9 dwellings, excluding wholly flatted developments, 25% of the dwellings on site should be affordable;*
- *On sites of 10 or more dwellings 40% of the dwellings on site should be affordable.*

When the affordable housing policy results in part of a dwelling, the part dwelling shall be provided as a financial contribution where this would not compromise the overall viability of the development.

Planning permissions will be subject to conditions or a planning obligation to ensure that the affordable housing remains affordable in perpetuity.

- 2.2 Since the introduction of the Core Strategy the Council has sought both 'on site' and 'off site' affordable housing provision consistent with the policy.

Current Community Services and Facilities Policy

- 2.3 The Council's adopted policy position on requiring Community Services and Facilities is established in the Core Strategy (2011) Strategic Policy 13. Since the introduction of the Core Strategy the Council has sought both 'on site' provision and 'off site' contributions consistent with the policy.

Strategic Policy 13 - Community Services and Facilities

Proposals to increase and enhance open space, recreation, leisure, cultural, health and education facilities will be supported where they will contribute to the wellbeing of a community and improve accessibility to services. Any new facilities or open space provision should be as well related as possible to the settlement, ensuring that they are designed so as to be fully accessible, taking into account a range of diverse needs and circumstances.

Existing services and community facilities should be retained where there is a continuing need.

The Council's Supplementary Planning Document 'Infrastructure & Community Facilities to Support New Development' (June 2007) applies a threshold of five dwellings below which contributions will not be sought (noting the different thresholds that apply to affordable housing).

The New National Threshold

2.4 On the 28th November 2014, the Government announced the introduction of a new national 10-unit threshold for affordable housing and other s.106 contributions. This policy was first mooted in the 2013 Autumn Statement and subsequently consulted upon in March 2014.

2.5 The policy was introduced through a Ministerial Statement and amendments to the National Planning Practice Guidance (NPPG), which supplements the National Planning Policy Framework (NPPF). The updated section of the NPPG entitled "Planning Obligations". States that;

There are specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-build development.

- *contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm*
- *in designated rural areas, local planning authorities may choose to apply a lower threshold of 5-units or less. No affordable housing or tariff-style contributions should then be sought from these developments. In addition, in a rural area where the lower 5-unit or less threshold is applied, affordable housing and tariff style contributions should be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after completion of units within the development. This applies to rural areas described under section 157(1) of the Housing Act 1985, which includes National Parks and Areas of Outstanding Natural Beauty*
- *affordable housing and tariff-style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home*

2.6 The guidance states that contributions should not be sought from developments of 10 units or less. It does however allow for a lower threshold to be introduced in certain circumstances, including in areas designated as rural under s.157 of the Housing Act 1985. West Devon falls within the rural areas designation and may therefore choose to adopt a lower threshold of 5 units in the rural areas. The designation does not however apply to the towns of Tavistock and Okehampton.

3. ISSUES FOR CONSIDERATION

Affordable Housing Contributions

3.1 This announcement is likely to have a range of implications for the delivery of housing. Over the past 3 years the Affordable Housing Team has secured approximately £420,000 in financial contributions from developments that under the new national thresholds would not be required to provide affordable housing. If the pattern of development remains the same in future years, the new national

thresholds could see the Council lose the opportunity to secure approximately £140,000 p.a. in contributions to support the provision of affordable housing.

Other Financial Contributions

- 3.2 Alongside Affordable Housing, officers have sought to secure financial contributions for Community Services and Facilities. Over the last three financial years this has secured approximately £50,000 for play, sport and community facilities projects, however this has been generated from schemes which are, in any case, over the 10 house proposed threshold for the towns. The only difference the new proposed thresholds will make will be to curtail the ability to take financial contributions for Community Services and Facilities from schemes of between 6 and 10 units in the towns.
- 3.3 Planning obligations and contributions can still be sought in order to make development acceptable. The statutory tests set out in the Community Infrastructure Levy Regulations 2010 for these obligations have not been changed and Councils will have to continue to demonstrate that the obligation is necessary, fair and reasonable and directly related to the development. The Council would wish to continue to secure this provision even where the contribution is used to fund infrastructure off site but within the Parish as it remains directly related to the development.
- 3.4 The NPPG describes tariff style obligations as those obligations which seek to secure a contribution to pooled funding 'pots' intended to provide common types of infrastructure for the wider area. The revised Guidance states that *"For sites where the threshold applies, planning obligations should not be sought to contribute to pooled funding 'pots' intended to fund the provision of general infrastructure in the wider area"* There is some uncertainty as to the circumstances in which the contributions normally secured by the Council for example in respect of community facilities, sport and recreation would be caught by this description and the Council is seeking further legal advice.

Issues / Implications

- 3.5 Careful consideration is necessary in order to establish how the Council should respond to this change and how planning applications to which this guidance relates should be determined. The issues arising include:-

a) Extant unimplemented permissions

Landowners with extant consents may seek to renegotiate the affordable housing and other financial obligations of completed s106 Agreements. In such cases there may be pressure to reconsider these obligations taking account of the new NPPG on thresholds, particularly if the Council amends the thresholds in accordance with the guidance. Enquiries are already being made but officers cannot indicate how many applications may be made.

The ability to renegotiate affordable housing obligations was introduced through Section 106BA of the 1990 Act (inserted by the Growth and

Infrastructure Act 2013). This amendment allows applications to be made to modify the affordable housing requirements of any Section 106 agreement regardless of when it was signed. This review must be based on economic viability and cannot take into account other aspects of the planning consent. It addresses affordable housing requirements only. This legislation has not been amended and nor has the NPPG with regard to this point. The change in Guidance relating to thresholds is not retrospective and therefore this renegotiation procedure remains the same.

However, in order to circumvent this, Landowners with an extant permission for a development which includes affordable housing and other financial obligations, either 'on site' or through a financial contribution, could submit a new application to effectively remove the obligation. This may lead to a number of additional applications coming forward.

Members therefore need to consider whether they wish to support a practice of allowing a variation of affordable housing obligations taking account of the revised NPPG on thresholds. Alternatively the Council may continue to require each application to modify a s.106 affordable housing obligation to be considered on its individual merits in accordance with Section 106BA, regardless of the revised NPPG on thresholds.

Officers view is that bearing in mind the legislation has not been amended and the value of contributions which are currently the subject of planning obligations is significant, the Council should not generally accept a change to the obligations unless the change is demonstrated to be necessary because the development would otherwise be economically unviable. The Council may however wish to adopt a pragmatic approach in relation to single dwelling applications and allow a variation of the affordable housing requirements. The justification for such an approach is to avoid the resubmission of a substantial number of planning applications for single dwelling developments.

b) Previously implemented permissions

There is the potential for applications to be made to cancel/remove contributions or obligations. Given that the government's aim is to bring forward development which was being held back by onerous planning obligations, it is considered that the new threshold policy should not be applied to schemes already built.

c) Thresholds

At the consultation stage the proposal was for a blanket 10 unit threshold. The opportunity to seek affordable housing from developments of 6-10 units in the rural areas therefore provides a welcome concession. However, when considered against the Council's adopted threshold of 1 dwelling, the reduced threshold falls well short of the existing position. Furthermore, the fact that sites of 6-10 units can only be required to provide a financial contribution does not guarantee the delivery of affordable housing where there is an identified

need. Provision 'on site' remains the most effective and efficient delivery mechanism.

The upper threshold applies to developments of 10 units or less, and which have a maximum combined gross floor space of no more than 1,000 square metres; it should be noted that there is no equivalent floor space threshold applicable to the five unit threshold proposed by CLG. On this basis, excessively large houses on schemes of five units or less may not be captured by the adoption of the lower threshold. Instead it is assumed that authorities will have to apply their own reasonable controls in terms of what is appropriate in respect of design and an effective and efficient use of land. Officers will seek further legal advice to establish whether a 500 square meter threshold may be applied to the 5 unit threshold.

d) Timing

The fact that financial contributions for schemes of 6-10 dwellings are not payable until after completion weakens the Council's ability to secure the contribution. Currently the Council requires payment of contributions up front but typically allows payment prior to occupation in recognition of viability issues associated with cash flow. The payment of contributions prior to occupation of the market dwellings avoids the risk of developer insolvency or the developer 'leaving site' without making payment as required. The Guidance suggests an approach as to how the contributions will be secured and officers will need to negotiate an appropriate s.106 mechanism which will mitigate the risk.

e) Loopholes

The use of arbitrary numerical thresholds can lead to loopholes which are open to exploitation in order to avoid payment of contributions. In the rural areas the most obvious risk will be a developer who splits a site into more than one planning application in order to avoid an affordable housing contribution. In the towns the risk is that developers will submit applications for schemes of 10 units where a site can reasonably provide more. A further loophole may be where a larger site in the same ownership comes forward in two phases with an under-threshold number of dwellings on each phase.

The Council should continue to take a robust approach on the assessment of sites and the most efficient use of land; there should be a clear position that proposals which are not an efficient use of land (i.e. lower density or split sites), should not be supported on the basis that they fail to deliver sustainable development. The Council will therefore continue to assess applications consistent with the approach set out in paras. 7.2 and 7.3 of the AH-DPD in order to prevent circumvention of site size thresholds.

Planning Policy Considerations

- 3.6 Department for Communities and Local Governmental (DCLG) officials have stated that the Written Ministerial Statement has the status of national planning

policy and ranks with the National Planning Policy Framework. This stance is one that is being debated nationally. It is the opinion of many within the legal profession that Guidance does not have the same weight as either Statute or indeed the NPPF. It has already been noted in this Report that there has been no amendment to Section 106 of the Town and Country Planning Act 1990 and the ability to enter into agreements remains unchanged. However, the Council cannot disregard the change in Guidance and would have to demonstrate in every case where it did not follow the Guidance that it was able to justify its position. In such circumstances It is not unreasonable to anticipate the Council being put to additional expense in the event of an appeal.

- 3.7 The Development Plan has primacy and Section 34 of the Planning & Compulsory Purchase Act 2004 requires decisions to be based upon development plan policies unless material planning considerations indicate otherwise. Despite the recent change in national policy, the Council is bound to continue to determine applications in line with its development plan, unless material planning considerations indicate otherwise.
- 3.8 Given the new national policy, the Council must consider how it will determine applications where the Development Plan would require the provision of affordable housing. A decision is required as to whether applications would be considered on a case by case basis, refused because affordable housing can no longer be required, or approved as market housing.
- 3.9 The Council may choose to continue to apply its existing adopted policies for the time being or adopt the new thresholds during the interim period prior to adopting a new Local Plan.

Current Legal Challenges

- 3.10 In considering the Council's position, Members should be aware of a legal challenge by two Berkshire Councils. Reading Borough Council and West Berkshire Council have jointly applied for a judicial review of the new policy. The Councils have served the claim including grounds of challenge on DCLG and as at 1st February are awaiting a response.
- 3.11 In addition to the above legal challenge, a Private Members Bill has been proposed and sponsored by Tim Fallon MP. The Bill is designed to give local planning authorities the power to determine the requirements for affordable housing contributions from sites of fewer than 10 units as part of planning obligation agreements under Section 106 of the Town and Country Planning Act 1990; and for connected purposes. This Bill was presented to Parliament on 9 September 2014 and is expected to have its second reading debate on 6 March 2015.

Options / Proposed Thresholds

- 3.12 The Ministerial Statement and revised guidance in the NPPG are material planning considerations and the Council must have regard to them in respect of planning applications where affordable housing or other contributions are sought. The intention of the Guidance is to enable development and to ensure that local authorities are not placing an undue burden on applicants, particularly in terms of viability. Were the Council to continue with its existing position it would need to demonstrate, with evidence in respect of every application, that local circumstances justified a different approach.
- 3.13 Given the suggested weight of the new guidance and the risks associated with an appeal, it is recommended that the Council adopt the new national threshold guidance.
- 3.14 It is unclear when the outcome of the legal challenge by Reading Borough Council and West Berkshire Council will be known. It seems sensible therefore to adopt the new thresholds on an interim basis. This approach provides the opportunity to review the position prior to adopting the new thresholds within the new local plan.

4. LEGAL IMPLICATIONS

- 4.1 The legal implications have been discussed in the report.

5. FINANCIAL

- 5.1 Implications include the potential loss of financial contributions from previously approved planning applications together with a loss of contributions from future planning applications which fall below the proposed new thresholds. The potential future loss arising from the new thresholds amounts to an estimated £140,000 p.a in respect of affordable housing. For other tariff style contributions there will no longer be an ability to require contributions for schemes in Tavistock and Okehampton between 6 and 10 units.

6. RISK MANAGEMENT

- 6.1 The Risk Management implications are shown at the end of this report in the Strategic Risks Template.

7. OTHER CONSIDERATIONS

Corporate priorities engaged:	Homes, Economy, Health and wellbeing.
Statutory powers:	
Considerations of equality and human rights:	None. This matter is assessed as part of each specific project.
Biodiversity considerations:	This matter is assessed as part of each specific project.
Sustainability considerations:	This matter is assessed as part of each specific project.
Crime and disorder implications:	None. This matter is assessed as part of each specific project.
Background papers:	Capital Programme Report, Executive 6 th December 2012.
Appendices attached:	None

STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Retaining existing thresholds	Should the Council decide to retain its existing threshold of 1 dwelling, there is a significant risk of appeal which may have financial implications.	4	3	12	↔	Any planning application which is determined in accordance with existing thresholds would need to demonstrate that it was able to justify its position.	Affordable Housing Manager Development Manager, Environment and Recreation Manager
2	Adopting new thresholds	The adoption of the new thresholds provides the opportunity to secure contributions from schemes of 6 – 10 units in the rural areas.	2	2	4	↔	Appropriate assessment of sites will be required to ensure new applications deliver an efficient use of land and are not phased or under developed in order to avoid the provision of financial contributions.	Affordable Housing Manager Development Manager, Environment and Recreation Manager

Direction of travel symbols ↓ ↑ ↔

This page is intentionally left blank



**West Devon
Borough
Council**

AFFORDABLE HOUSING CODE OF PRACTICE

A Supplementary Planning Document of the West
Devon Borough Council Local Development
Framework

March 2012

CONTENTS

1. Purpose	page 3
2. Policy Context	Page 3
3. General Principles	Page 4
4. Housing Specific Principles	Page 5
5. Off-site Contributions	Page 8
6. Viability	Page 10
7. Exclusions	Page 10
8. Equality and Diversity	Page 10
9. Review	Page 10
Annex A. Off-site Contribution Methodology	Page 11
Annex B. Key Viability Information	Page 12

1. PURPOSE

- 1.1** The purpose of this Code of Practice is to provide more information on how the policies in the Core Strategy are applied. In particular, it seeks to reduce uncertainty and delay, ensure a consistent approach and provide clear guidance for developers on the requirements to be met in providing affordable housing in West Devon.

2. POLICY CONTEXT

2.1 General

- Draft National Planning Policy Framework
- Planning Policy Statement 3
- 2010 Comprehensive Spending Review
- Localism Act
- Department of Communities and Local Government Structural Reform Plan
- Devon Structure Plan
- West Devon Borough Council Core Strategy
- West Devon Borough Council saved Local Plan
- Connect Strategy for South Hams and West Devon
- Homes Strategy for South Hams and West Devon
- West Devon Borough Council housing policies
- Health and Social Care strategies and plans
- Devon County Council strategies and plans
- Registered Provider Partners strategies and plans

2.2 West Devon Borough Council Core Strategy Strategic Policy 9

Meeting Housing Needs

Throughout the area of West Devon covered by this Core Strategy all housing development will be expected to contribute to meeting the targets for affordable housing set out below, subject to viability:

- On sites of 1-4 dwellings, excluding wholly flatted developments, a 15% off site financial contribution per dwelling will be required;
- On sites of 5-9 dwellings, excluding wholly flatted developments, 25% of the dwellings on site should be affordable;
- On sites of 10 or more dwellings 40% of the dwellings on site should be affordable.

When the affordable housing policy results in part of a dwelling, the part dwelling shall be provided as a financial contribution where this would not compromise the overall viability of the development.

Planning permissions will be subject to conditions or a planning obligation to ensure that the affordable housing remains affordable in perpetuity.

2.3 Draft National Planning Policy Framework

Local planning authorities should where they have identified affordable housing is required, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective

of creating mixed and balanced communities.

2.4 Department of Communities and Local Government Structural Reform Plan

Meet people's housing aspirations by streamlining and speeding up the planning system, providing local authorities with strong and transparent incentives to facilitate housing growth, as well as making the provision of social housing more flexible.

3. GENERAL PRINCIPLES

- 3.1** Developers and landowners should initially discuss any proposals for residential development with both West Devon's Planning and Housing Sections to ensure that any requirements for affordable housing are clearly identified at an early stage.
- 3.2** Developers will be advised by the Local Authority, at the earliest possible stage, of the need for, and costs of, affordable housing requirements to enable this to be incorporated within their land negotiations.
- 3.3** The extent of what is required will be fairly and reasonably related in scale and kind to the proposed development and will have due regard to what is reasonable in terms of the overall viability of the project.
- 3.4** When considering outline planning applications where the number of dwellings is not stated an affordable housing contribution will be required as set out in paragraph 2.2. This requirement will specify the likely overall percentage of units that shall be affordable and also the proportion of those affordable units required to be of a particular size, type and tenure in accordance with the policy set out in this document.
- 3.5** All planning applications will be assessed against the Council's affordable housing policies with the following exception. The policies will not apply to existing consents where an application is made to vary that consent, provided that the new application does not increase the number of homes on the site. Any increase in units will be subject to the affordable housing policies.
- 3.6** The affordable housing policies **will** apply to planning consents which have expired and been re submitted
- 3.7** All substantial new housing schemes should be planned to "achieve a wide choice of high quality homes, both affordable and market housing, to address the requirements of the community" (PPS3 – Paragraph 9)
- 3.8** Due to very high levels of housing need West Devon will, wherever possible, be seeking 'on-site' contributions from developers on sites of 5 dwellings or more. Off-site contributions on these sites will only be considered in exceptional circumstances or where it is assessed that the Borough's housing need would be better met on another site or in another location.
- 3.9** All information on agreed obligations will be kept on the Local Planning Authority Statutory Planning Register and copies of the agreement will be available to all interested parties.
- 3.10** Agreements between the parties will be entered into under the provisions of the Town and Country Planning Act 1990, Section 106.

- 3.11** The developer will be responsible for paying the LPA's fees in connection with the preparation and completion of the Section 106 Agreement and any viability work which needs to be undertaken.

4. HOUSING SPECIFIC PRINCIPLES

4.1 Affordable Housing - Definition

- 4.1.1** National Planning Policy Statement 3 (PPS3) was revised in June 2011 and defines affordable housing as housing that meets "the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices".

- 4.1.2** Affordable housing includes social rented, affordable rented and intermediate housing (including Low cost Home Ownership products). Further information on the different forms of affordable housing is available on the Council's Website at www.westdevon.gov.uk.

4.2 Affordability

- 4.2.1** It is essential that the affordable housing provided in West Devon meets the definition set out in PPS3. This includes the affordability of new affordable homes i.e. these should be at a cost low enough to afford determined with regard to local incomes and local house prices.
- 4.2.2** The Council carries out a comprehensive assessment of housing needs and affordability. Copies of borough-wide assessments and updates, state of the market reports, housing needs and affordability research and the Council's Homes Strategy are available on request or via the Council's website www.westdevon.gov.uk
- 4.2.3** The Council also commissions specific local housing surveys to determine need and affordability in rural settlements, defined as having a population under 3,000. In West Devon this is all settlements other than Okehampton and Tavistock.
- 4.2.4** The rents charged for social rented housing shall not exceed the Target Rent set by the Tenant Services Authority plus or minus 5%.
- 4.2.5** The rents charged for affordable rented housing may not exceed 80% of market rent. Valuations to determine local market rents will be carried out in accordance with recognised Royal Institute of Chartered Surveyors (RICS) standards. The Council will seek to moderate affordable rents to a lower figure where there is evidence to demonstrate that 80% market rent is not affordable to local households in housing need.
- 4.2.6** The Council will determine the mix of affordable rented and social rented housing on any development with regard to the level of income of local households in need and local market rent levels.
- 4.2.7** Subject to site specific viability issues, the combined gross weekly housing costs, i.e. the sum of rent, mortgage and service charges for *shared equity housing* provided through the planning process, or with public subsidy, must not exceed the amounts set out in the table below.

PROPERTY TYPE	Maximum Gross Weekly Housing Cost	
	Percentage of equity purchased	
	25%	50%
1 bed flat	£94	£123
2 bed flat	£108	£142
2 bed house	£118	£157
3 bed house (4 persons)	£132	£175
3 bed house (5 persons)	£146	£194

Notes to above table

1. based on 6% mortgage over 25 years, using information from the Council of Mortgage Lenders
2. assumes that no more than 30% of gross household income should be spent on housing costs
3. assumes a service charge of £500 pa on flats and £300 pa on houses

4.2.8 The maximum combined gross weekly housing cost paid by the purchaser of a shared *equity* lease shall not exceed 30% of the gross income of the purchasing household, and the percentage of the equity sold shall reflect this.

4.2.9 The initial percentage of the equity sold shall not be below 25%.

4.3 Development Standards

4.3.1 The Council will expect high standards of design, layout and landscaping for all developments, which respect the character of the area, reflect local distinctiveness and are in keeping with the Council's principles of sustainable development. Developers should ensure that the proposals meet with the requirements of West Devon Borough Council's Core Strategy policies in respect of design, conservation and sustainability.

4.3.2 To ensure the creation of mixed and integrated communities the affordable housing should not be visually distinguishable from the market housing on the site in terms of build quality, materials, details, levels of amenity space and privacy.

4.3.3 The affordable housing should be tenure blind and fully integrated with the market housing. Normally it should be distributed evenly across the site in small clusters distributed evenly throughout the development, unless otherwise agreed by the Council. Tenure blind integration should be considered at an early stage of the detailed design and layout of the site.

4.3.4 Schemes funded under the Homes and Communities Agency's (HCA) National Affordable Housing Programme, must be built to, meet or exceed the HCA's Design and Quality Standards (April 2007)

4.3.5 The latest HCA standards can be downloaded from the HCA's website and the HCA regional offices can provide further clarification.

4.3.6 All affordable housing shall be built to at least Level 3 of the Code for Sustainable Homes unless otherwise agreed by the Council. Agreement will be exceptional rather than the norm. A booklet containing full details of the Code is available from the Department for Communities and Local Government.

4.3.7 The Council will seek to ensure a proportion of homes on larger developments are provided to the full Lifetime Homes standard as set out in the Core Strategy (Strategy Policy 8).

4.3.8 In general developers should consider the following design factors:-

- external and internal environment factors
- accessibility requirements
- safety and security
- energy efficiency, environmental sustainability and noise abatement
- maintainability, durability and adaptability

4.4 Achieving a mix of housing

4.4.1 “Key characteristics of a mixed community are a variety of housing, particularly in terms of tenure and price and a mix of different households such as families with children, single person households and older people” (PPS3 June 2011)

4.4.2 Based on housing needs evidence the Council will seek the following mix:

- ❖ 80% of affordable housing will be for rent, and 20% for sale on shared equity leases.
- ❖ Affordable housing for sale on shared equity leases will have 2 bedrooms or more, and be houses and not flats.
- ❖ 25% of affordable housing will have one bedroom, 50% two bedrooms and 25% three bedrooms or more. Two and three bedroom properties should usually be houses rather than flats. If a developer/registered provider wishes to provide two bedroom dwellings instead of one bedroom, they must be available for occupation by a single person.

The above figures are indicative and may be varied to meet the identified needs of particular areas.

4.5 Housing Needs Assessment

4.5.1 Affordable housing requirements are made according to levels of need which are assessed as follows:-

- Housing Market and Needs Assessments
- State of the Market Reports
- Statistical data on the economy, employment, demographics, incomes, house prices and mortgage availability and affordability.
- Current information held on the Housing Register and Devon Home Choice bidding patterns and allocations
- Information from parish surveys or appraisals
- Shared equity take-up
- Number and type of affordable housing properties throughout the Borough
- Recent availability of properties throughout the borough
- Number of right to buy sales which have taken place in the Borough
- Mix of house types and sizes throughout the Borough

The above list is not exhaustive but gives an indication of the information used to determine levels of need.

- 4.5.2** Any supported housing requirements should be clearly evidenced and compatible with the Supporting People Programme.
- 4.5.3** Operationally, the definition of '**local need**' is taken to mean residents of West Devon Borough as a whole, unless development is carried out on an exception site where local connection criteria is restricted to a smaller area and is focussed on particular parishes and neighbouring parishes.
- 4.5.4** Such 'local need' criteria on exception sites will be agreed on an individual basis as and when such sites are developed.
- 4.5.5** For the purposes of clarity a household has a connection with West Devon in any of the following circumstances:-
- a. The applicant has lived in West Devon for 6 out of the last 12 months or 3 out of the last five years, where this has been out of choice.
 - b. The applicant has permanent work in West Devon
 - c. The applicant has family connections in West Devon (immediate family who have themselves lived in West Devon for at least 5 years).
 - d. The applicant is owed a statutory rehousing duty under the homelessness legislation

4.6 Occupancy and Controls

- 4.6.1** West Devon will be seeking to control initial and future occupancy of **ALL** affordable homes for local people either;
- by working in partnership with a *Registered Provider*, or
 - by way of the Section 106 Agreement

4.7 Registered Providers (RP)

- 4.7.1** Where developers intend to work in partnership with a Registered Provider they are advised to contact the Council's Strategic Housing Team in order to identify an RP that can demonstrate the following:-
- good housing management performance
 - local management
 - proven development track record.

but the final choice of RP rests with the developer

- 4.7.2** Developers should seek to identify any partner *RP* early on in the development process in order that the *RP* may be involved in the negotiation process at an early stage.
- 4.7.3** If a developer proposes to work with an organisation which is not an *RP*, the Council's written prior permission must be obtained. That permission will only be given if the Council are satisfied on the quality of the housing management to be provided, including type and security of tenure, quality and cost of maintenance, allocation arrangements and resident involvement and communication.

5. OFF-SITE CONTRIBUTIONS

- 5.1** Where a financial contribution is payable this will be used to meet affordable housing needs for the Borough of West Devon. Contributions will not

necessarily therefore be utilised in the same settlement and may be pooled to contribute towards the provision of affordable housing anywhere in the Borough.

- 5.2** The calculation for contributions is based on the Affordable Housing Viability Assessment carried out by Levvel Ltd in February 2010 to support the affordable housing policy set out in the Core Strategy. This study used the Levvel Development Viability Model to determine residual land values (RLV) in relation to the gross development value (GDV). The study used 25% of GDV for smaller sites, that do not include flatted developments, and 20% on larger sites where there is likely to be some flatted development.
- 5.3** For simplicity, and as the contribution may be used towards the provision of affordable housing anywhere in the borough, the Council has used average market values by bedroom size and property type (flat or house) across West Devon to calculate the RLV and the resulting contribution this will give rise to. However, where the developer can demonstrate to the satisfaction of the Council that the market value is significantly lower than the average figure a reduced contribution based on the actual market value may be agreed.
- 5.4** The methodology for the calculation of contributions is set out in Annex A and summarised below.
- 5.5** On sites of 1-4 dwellings an on-site contribution is not practical and therefore an off-site financial contribution will be required to meet the Council's strategic objectives and create mixed and balanced communities:

Bedroom size and type	Financial contribution per dwelling
Two bedroom house	£6,000
Three bedroom house	£7,875
Four bedroom plus house	£13,125

- 5.6** When the Local Planning Authority (LPA) and developer have exceptionally agreed to accept that it would not be desirable for affordable housing to be provided on any particular development of five dwellings or more, the developer shall pay a capital sum to the Local Authority sufficient to ensure that affordable housing can be delivered elsewhere in the Borough.
- 5.7** Financial contributions in such cases will equate to the value of the free land that would have been provided if the contribution had been provided on site.

On sites of 5-9 dwellings the contribution will be based on the provision of two bedroom houses on site only as this is the property type for which there is the greatest need as set out in the tenure mix in 4.4.2. This equates to £40,000 per property.

On sites of 10 dwellings or more the contribution will be as follows:

Bedroom size and type (based on usual property mix required by the Council)	Financial contribution per dwelling
One bedroom flat	£18,000
Two bedroom house	£32,000
Three bedroom house	£42,000

5.8 The details of when payment is due will be set out in the Section 106 agreement, but in general:

- 50% of the agreed sum will be payable within one month of implementation of the development.
- On sites of 1-4 dwellings the remaining 50% will be payable on occupation of the first dwelling.
- On sites of 5-9 dwellings the remaining 50% will be payable on occupation of the fourth dwelling.
- On developments of over 10 units the remaining 50% will be payable on occupation of the first 50% of the dwellings.

5.9 The Agreement will also specify that monies received must be used towards the provision of affordable housing in the borough of West Devon within an agreed period from the receipt of all monies. This period will normally be no less than 10 years. If not so applied, within the terms of the Agreement, the monies shall be repayable on demand. A clause will also be included providing details in respect of the actual payments requested being “index linked” and in the event of any delay in the payment, interest shall become payable, as specified in the agreement.

6. VIABILITY

6.1 All contributions are subject to viability.

6.2 Where developers raise concerns in respect of the viability of schemes due to requirements including one or more proposed obligations, they will be required to substantiate any claim by submitting full financial details and valuations for assessment. The Council will decide the scope of any such viability assessment, including who will undertake the assessment. The developer will be responsible for paying all costs associated with the assessment. An indicative guide to the type of viability information required is set out at annexe B.

7. DEVELOPMENTS EXCLUDED FROM PROVIDING AN AFFORDABLE HOUSING CONTRIBUTION

7.1 The following developments will not be subject to a requirement to provide either an off-site or on-site affordable housing contribution:

- Developments of 100% affordable housing.
- Wholly flatted developments of up to, and including, 9 units.
- Developments with a condition limiting the use of the dwellings on that development so that they are not available for market sale or rent, to include agricultural dwellings and holiday lets.
- Replacement dwellings or conversions, which do not provide additional residential units, unless the nature of such dwellings differs significantly from those they are replacing. The Borough Council will determine what constitutes a significant change, but examples might include flats being replaced by houses or a dwelling that is much larger than the original unit.
- Hostels, educational establishments with accommodation directly linked to educational facilities on site and residential care/nursing homes.

7.2 For the avoidance of doubt contributions are payable where there is a change of use or sub-division that results in a net additional residential dwelling not limited by condition.

8. EQUALITY AND DIVERSITY

- 8.1 West Devon Borough Council is committed to *acknowledging* the full diversity of *our* community and to promoting equality of opportunity for everyone.
- 8.2 This *document* can be made available in large print, Braille, tape format or in any other language on request.

9. REVIEW

- 9.1 This policy will be reviewed on an annual basis to ensure it remains fit for purpose.

ANNEX A – OFF-SITE CONTRIBUTION METHODOLOGY

Sites of 1-4 dwellings, excluding wholly flatted developments:

Contributions based on 15% of residual land value. This is in turn is based on 25% of gross development value, as set out in the Affordable Housing Viability Assessment carried out by Levvel Ltd in February 2010. Gross development value based on 2010 market values as assessed by the Council using Hometrack and Land Registry data.

Type and bedroom size of property	Average market value	Residual land value (RLV) at 25%	Contribution at 15% of RLV, per property
Two bedroom house	£160,000	£40,000	£6,000
Three bedroom house	£210,000	£52,500	£7,875
Four bedroom house	£350,000	£87,500	£13,125

Sites of 5-9 dwellings, excluding wholly flatted developments:

Contributions will normally be expected to be on-site provision of affordable housing. In exceptional cases a financial contribution may be agreed in lieu of the on-site contribution. In such cases the contribution will equate to the value of the free land that would have been provided if the contribution had been provided on site.

On sites of 5-9 dwellings the on-site contribution is set at 25%. This would deliver between one and two dwellings. Due to the level of need in West Devon these would be expected to be two bedroom houses. With an average market value of £160,000 the contribution would therefore equate to £40,000 per dwelling.

Contribution:

Number of properties on development	Expected on-site contribution	Total contribution
Five-Six	One 2 bedroom house	£40,000
Seven-Nine	Two 2 bedroom houses	£80,000

Sites of 10 dwellings or more:

Contributions will normally be expected to be on-site provision of affordable housing. In exceptional cases a financial contribution may be agreed in lieu of the on-site contribution. In such cases the contribution will equate to the value of the free land that would have been provided if the contribution had been provided on site.

On sites of 10 dwellings or more the on-site contribution is set at 40%. Contributions are based on 20% of gross development value, as set out in the Affordable Housing Viability Assessment carried out by Levvel Ltd in February 2010. Gross development value based on 2010 market values as assessed by the Council using Hometrack and Land Registry data.

Bedroom size and type (based on usual property mix required by the Council)	Average market value	Residual land value (RLV) at 20% (contribution per property)
One bedroom flat	£90,000	£18,000
Two bedroom house	£160,000	£32,000
Three bedroom house	£210,000	£42,000

Worked example:

Development of 20 houses: on-site contribution = 8 houses (40% of 20)

Mix (as per 4.4.2): 2 one bedroom flat, 4 two bedroom houses and 2 three bedroom houses.

Calculation:

2x £18,000 = £36,000

4 x £32,000 = £128,000

2x £42,000 = £84,000

Total contribution: £248,000

Annex B: Development Viability – Key Information Required

Where development viability is to be assessed, the Council will require an assessment of the site economics. The following sets out the range of key viability information that is likely to be required in order to assess viability. A free development viability tool is available to download from the Homes and Communities Agency website at www.homesandcommunities.co.uk

Depending on the nature of the proposals, the information likely to be required may include the following.	
Residential Values	
Affordable Housing	£
Open Market Housing	£
Social Housing Grant	£
Residential Building, Marketing & Section 106 Costs	
Affordable Housing Build Costs	£
Open Market Housing Build Costs	£
Residential Car Parking Build Costs	£
Cost Multipliers (Eco-homes etc)	£
Building Contingencies	% / £
Building Cost Fees (Architects, QS etc):	% / £

Other Acquisition Costs (£)	£
Section 106 Costs (£)	
Infrastructure / Public Transport	£
Community Facilities	£
Public Realm / Environment	£
Sustainability Issues	£
Others	£
Site Abnormals	
Infrastructure Costs	£
Contamination Costs	£
Demolition Costs	£
Other Costs	£
Sustainability Initiatives	£
Marketing (Open Market Housing)	
Sales Fees:	% / £
Legal Fees (per OM unit):	% / £
Marketing (Affordable Housing)	
Cost of sale to RSL (£)	% / £
Total Finance Costs	
Arrangement Fee	£
Misc Fees (Surveyors etc)	£
Agents Fees	£
Legal Fees	£
Stamp Duty	£
Total Interest Paid	% / £
Developer 'Profit'	
Open Market Housing Operating 'Profit'	£ / %
Affordable Housing 'Profit'	£ / %
SITE VALUE	£

This page is intentionally left blank

Report to: **Council**

Date: **29 September 2015**

Title: **Introduction of a Discretionary Local Business Rate Relief Discount Policy**

Portfolio Area: **Cllr Robert Baldwin,
Deputy Leader of the Council
Strategy & Commissioning**

Wards Affected: **All**

Relevant Scrutiny **N/A**

Committee:

Approval and clearance obtained: **Yes**

Urgent Decision: **N/A**

Date next steps can be taken:

Author: **Darren Arulvasagam,
Business Development, Group Manager
01803 861222 / darren.arulvasagam@swdevon.gov.uk**

**Lisa Buckle,
S151 Officer / CoP Lead, Finance
01803 861413 / Lisa.Buckle@swdevon.gov.uk**

Recommendations:

That Council be RECOMMENDED:

- a) to offer local businesses discretionary business rate relief where it is in the interest of local Council tax payers to do so
- b) to ratify a new discretionary business rate relief policy as detailed within Appendix one and approve the rate relief application form as shown in Appendix two attached to this report
- c) to agree the formation of a discretionary business rate relief decision panel, who will appraise and determine applications on an as-needs basis as set out in paragraph 1.6 of this report
- d) to delegate authority to the Group Manager, Business Development in consultation with the Deputy Leader of West Devon Borough Council to make minor legal amendments to the Policy shown in Appendix one prior to it being published and adopted as appropriate
- e) to review the policy after one year
- f) to refer decisions made by the panel to the Audit Committee

Executive summary

- 1.1. This report recommends that the Borough Council utilises its powers to apply discretionary business rate relief.
- 1.2. Section 69 of the Localism Act 2011 amends Section 47 of the Local Government Finance Act 1988 and allows billing authorities such as West Devon Borough Council, to grant discretionary rate relief in any circumstances, provided it is in the interests of the local Council tax payers to do so.
- 1.3. The purpose of these new powers is to give billing authorities the ability and scope to encourage, sustain and improve local economic performance by temporarily lowering the business rate burden while local businesses grow and create significant additional employment within the Borough.
- 1.4. Appendix one contains the recommended policy, whilst Appendix two contains the recommended discretionary rate relief application form.
- 1.5. Members are requested to agree the formation of a new discretionary business rate relief decision panel, who will review and determine applications in line with this report and appended policy.
- 1.6. It is suggested that this panel is formed by three Members: the Mayor; the Leader of the Council, and; the Deputy Leader of the Council. Two further Members are to be nominated as substitute panellists, in the event that one of the core three cannot attend a review panel meeting within a timely manner (or have a conflicting declaration of personal interest). The Chair of the O&S Committee and the Economy Portfolio Member of the Hub Committee are suggested as stand-by panellists. Where applicable, the local Ward Member will be invited to attend a decision panel meeting in order to support the application decision process.

2. Background

- 2.1. In order to stimulate local business growth and retain local businesses and jobs within the Borough, it is proposed that the Council applies powers available to it to offer discretionary business rate relief, where there is a tangible benefit to local tax payers.

The relief will offer growing businesses discretionary financial assistance through their growth transition and can help to safeguard jobs. Without a Policy, growing businesses would not be able to receive assistance from this billing authority and could be attracted by the financial benefits offered by local enterprise zones or soft landing policies in other Districts / Boroughs.
- 2.2. When West Devon receive business rates, it has to pay other public bodies a share of the revenue it receives. 50% is returned

to Central Government; 9% is paid to Devon County Council and 1% is paid to the Fire Authority. 40% is retained by West Devon.

Offering discretionary business rate relief will reduce the revenue generated by West Devon in the short term and consequently reduce the amount payable to these other authorities. This is currently the case with other discretionary awards made by the Council, such as non-profit making bodies and charitable occupation relief.

- 2.3. West Devon is part of the Devon Business Rate Pool for the current year. Other pool members, including Teignbridge and Plymouth already offer similar schemes.

3. Outcomes/outputs

- 3.1. The aim of this policy is to attract, nurture and retain businesses within the billing authority and encourage them to expand and create more jobs and economic value for the Borough. Once in place, the policy will help the Borough compete with other areas looking to attract growing businesses.
- 3.2. It is not possible to forecast the amount of business rate income that will be foregone by adopting this policy. Applications and therefore awards will vary according to the type of business applying and their individual circumstances and the panel's decision on what level of discount and discount duration to award.
- 3.3. It is expected that the policy will apply to all premises irrespective of ownership.
- 3.4. The panel will use its discretion to determine discount applications, paying due attention to safeguard local businesses, including those competing with the discount applicant.

4. Options available and consideration of risk

- 4.1. Members could opt to do nothing – however, this could realistically result in local businesses opting to move and expand their operations outside of the Borough. Such a move could result in local job losses, vacant property and an eventual reduction in business rate revenue.
- 4.2. Members could facilitate an alternative method of offering local businesses financial support to grow and create additional job opportunities. At present no other funding streams or reserves are available to small and medium sized businesses other than grant applications to the South Devon Coastal Local Action Group (SDC LAG) and / or the Greater Dartmoor Local Enterprise Action Fund (GD LEAF). Applications of this type are typically restricted to certain business types and for defined purposes. GDLEAF and

Introduction of a Discretionary Local Business Rate Relief Discount Policy

SDC LAG can offer one-off grants of £50,000 or less, however applications are not currently being accepted due to delays experienced by the Rural Payments Agency. Applications are expected to be accepted from October.

5. Proposed Way Forward

- 5.1. It is recommended that West Devon Borough Council Members agree to utilise its power to offer local businesses discretionary business rate relief where it is in the interest of local Council tax payers to do so. This policy will be used in exceptional circumstances at its absolute discretion, where the criteria of the policy has been met and the principles of the policy followed.
- 5.2. Appendix one sets out the principles and criteria whilst the discretionary business rate relief application form is shown in appendix two.
- 5.3. A discretionary business rate relief decision panel will be formed of three Members, with two stand-by substitutes in order facilitate a timely decision on applications. Where applicable, the local Ward Member will be invited to attend a decision panel meeting in order to support the application decision process.
- 5.4. The policy and applications will be promoted on an as-needs basis to relevant businesses in the locality.

6. Implications

Implications	Relevant to proposals	Details and proposed measures to address
Legal/ Governance	Y	<p>The Council has a Discretion under section 69 of the Localism Act whether to grant rate relief provided that it is in the interests of the local council tax payers, and in order to exercise that discretion the Council needs to adopt a Policy.</p> <p>Care must be taken to ensure that any relief awarded must not contravene state aid laws. There is provision within the policy principles and criteria to request that applicants state all prior state aid assistance and evidence to ensure any award does not exceed the 'de minimis' threshold level of €200,000 over a rolling three year period from any Government body / organisation.</p> <p>The Council must have regard to its fiduciary duty to Council tax payers – by awarding temporary relief, Council tax payers are in effect subsidising businesses to grow. The policy and principles are based around a rapid return on investment, i.e. greater business rate returns after the initial relief period.</p>
Financial	Y	<p>Relief will only ever be awarded for a defined time period. Business rate income could reduce in the short term as applications are accepted and relief is awarded. However, beyond the initial relief period, business rate revenue is expected to increase. Applicants will be</p>

Introduction of a Discretionary Local Business Rate Relief Discount Policy

		<p>required to evidence a long lease / freehold to remain in the locality in order to apply for the relief. Clawback provisions are included in the event the business were to relocate within a 5 year time period after application.</p> <p>There is a financial impact to awarding rate relief discounts under Section 47 of the Local Government Finance Act 1988 and the cost to the Council is 40% of the relief awarded. Applications will be assessed on a case by case basis. There is no Government support for such awards, thereby having a direct impact on the taxpayers of the Borough. The policy and principles are based around a rapid return on investment, i.e. greater business rate returns after the initial relief period.</p> <p>It should be noted that when a business relocates from within the Borough to a new property within the Borough, rates on the former premises (which would then be empty) are subject to 100% mandatory relief for 3 months (extendable to 6 months depending on premises type). This would further reduce income for the period. After the 3/6 months, rate liability for the landlord / freeholder reverts to the full amount on the former premises.</p>
Risk	Y	<p>The policy must not set an unwelcome precedent. It has been drafted to ensure that it protects the interests of local Council tax payers and will only help businesses who are intending and in a position to grow.</p> <p>Not having a defined policy could result in the Council having to determine discretionary rate relief applications without a defined set of criteria or principles and could result in unfair and anti-competitive awards.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity	N/A	
Safeguarding	N/A	
Community Safety, Crime and Disorder	N/A	
Health, Safety and Wellbeing	N/A	
Other implications	N/A	

Please refer to Appendix 1 for the full policy and Appendix 2 for the suggested discretionary local business rate relief discount Application form.

Introduction of a Discretionary Local Business Rate Relief Discount Policy

Process checklist	Completed
Portfolio Holder briefed	Yes
SLT Rep briefed	Yes
Relevant Exec Director sign off (draft)	Yes
Data protection issues considered	Yes
If exempt information, public (part 1) report also drafted. (Executive/Hub/Scrutiny)	n/a

Appendix One: Draft Discretionary Business Rate Relief Policy

Powers to apply discretionary business rate relief

Section 69 of the Localism Act 2011 amends Section 47 of the Local Government Finance Act 1988 to allow billing authorities such as West Devon Borough Council, to grant discretionary rate relief in any circumstances, provided it is in the interests of the local Council tax payers to do so.

The purpose of this new power is to give billing authorities the ability and scope to encourage, sustain and improve economic performance by having the power to lower the business rate burden while businesses grow and create significant additional employment within the Borough.

Local Business Rate Relief Discount (LBRRD) Requirements

The following principles apply when considering LBRRD applications:

- i. The Council will consider the cost of funding the LBRRD and the burden this places on its finances
- ii. The LBRRD will support opportunities for new business growth, expansion, employment and the safeguarding of jobs within the Borough and the effect this will have on competing local businesses
- iii. If it is reasonable to offer a LBRRD having taken into account the interests of the Council tax payers as a whole
- iv. Any LBRRD award will be at the absolute discretion of the billing authority. The LBRRD may be awarded to any property or business of the Councils choosing, at any level between 0% and 100%. For example, 20% or 100% or for companies who are relocating within the Borough, the discount awarded may equal the difference between the old premises business rates payable and the new premises business rates payable
- v. Claims for LBRRD cannot be backdated
- vi. The Council reserves the right to withdraw the LBRRD scheme at any time
- vii. Whether the award of a LBRRD may constitute State Aid. The 'de minimis' threshold for State Aid granted to any undertaking of any size must not exceed €200,000 over any rolling period of three fiscal years from any source. The onus is on the applicant to provide sufficient evidence to the billing authority to confirm that the 'de minimis' threshold is not and will not be breached. Applications which may constitute state aid will not be considered

Criteria for valid LBRRD applications

Each application will be considered on its individual merits against the criteria set out below:

- 1) Does the LBRRD incentivise the creation of new permanent contract (not zero hour contract) jobs for local people (paying the living wage as a minimum)?
- 2) Will the LBRRD provide a return on investment from higher future rates income?
- 3) Are there social or economic implications for the area if the LBRRD is not applied? e.g. the loss of a substantial number of jobs or skills from the area
- 4) Is the request for temporary relief (LBRRD will not be repeated year after year)
- 5) To be considered for an award under this policy the applicant must be either :
 - a) A new business starting up in the area
 - b) A business relocating to the area

Introduction of a Discretionary Local Business Rate Relief Discount Policy

- c) An existing business expanding within the area and creating additional or safeguarding existing jobs
- 6) Applications will not normally be considered where the Applicant's business premises are held on a lease with less than seven years remaining at the time of application
- 7) No LBRRD will be awarded for greater than 2 years
- 8) No LBRRD will be awarded if the applicant has received financial assistance worth a cumulative total of greater than €200,000 over three years, from any source that could be considered as State Aid
- 9) LBRRD will not normally be considered until the Applicant has all required permissions, licences, leases and other provisions in place in order to begin lawfully trading from the premises at which the rate relief will be applied
- 10) In considering an application for a LBRRD, applicants may be asked to provide certain information. This may include, but is not limited to, the last two years of financial accounts; a business plan, and; evidence of its ownership of a freehold or a minimum remaining lease term of seven years for commercial premises
- 11) All LBRRD decisions are to be made by the discretionary business rate relief panel within four weeks of receipt of a fully completed application form and all requested supporting evidence
- 12) Any LBRRD awarded will be made by crediting the business rate account to which it applies
- 13) There is no statutory right to appeal against a decision made by the discretionary business rate relief panel other than a Judicial Review. An applicant may make a request for the decision panel to review a decision within four weeks of notification of a decision but only where additional relevant information becomes available that was not available at the time the decision was made. Cases will be reviewed by the same discretionary rate relief panel. A request for review must set out the reasons for the request to review and include the relevant new information.
- 14) The applicant must sign a statement of intent to operate the business in the Borough for a minimum of five years.
- 15) If in the Council's opinion any of the clawback events or termination events listed in Appendix A occur, the Council may at its absolute discretion:
 - a) Suspend the LBRRD awarded under this Policy for such period as the Council shall determine;
 - b) Vary the LBRRD awarded under this Policy, in which case the discount shall thereafter be made in accordance with a written variation notified to the Applicant;
 - c) Terminate any agreement to award the LBRRD under this Policy whereupon the Council shall cease to be under any obligation to provide any further LBRRD to the Applicant and (in addition) the Council may require the Applicant to repay the whole or any part of the LBRRD previously enjoyed by the Applicant and the Applicant agrees that upon receipt of written notice requiring repayment the Applicant shall repay the sums required within 30 days of receipt of such notice.

Notwithstanding the provisions of Clauses (a) and (b) above, in the event that an applicant relocates the business for which the LBRRD is awarded to a location outside of the Borough, within a period of five years from the date of the decision to award the LBRRD, the Council shall be entitled to recover some or all of the LBRRD on the following basis:

Introduction of a Discretionary Local Business Rate Relief Discount Policy

If the relocation occurs before 5 calendar years have expired beginning with the date of the decision, 100% of the LBRRD awarded shall be recoverable, at the Council's discretion.

APPENDIX A - CLAWBACK AND TERMINATION EVENTS

The following Clawback and Termination Events apply to this Policy:

1. There is any change in the Applicant's legal status and such a change is likely to adversely affect the LBRRD; or
2. Any claim and/or report submitted by the Applicant does not properly comply with the requirements detailed in this Policy; or
3. Any information supplied by the Applicant under or in connection with the LBRRD proves to be materially incorrect or misleading; or
4. The Applicant does not comply with or observe any condition of this Policy; or
5. The assistance exceeds European Community State Aid limits to the extent that any LBRRD paid should not have been paid or if a decision of the European Commission or of the European Court of Justice requires payment to be withheld or recovered; or
6. There is an unsatisfactory report from the auditors. This will be the case if the auditors refer to a fundamental uncertainty, a disagreement or a limitation to their opinion, or if the auditors are unable to form an opinion; or if they report that the statement of grant does not give a true and fair view; or
7. There is any evidence of irregularity, impropriety or negligence in connection with a LBRRD application; or
8. If:
 - a. the Applicant, being an individual, an incorporated or an unincorporated body, becomes bankrupt, has a receiving order or administration order made against it, makes any composition or arrangement for the benefit of creditors, makes any conveyance or assignment for the benefit of creditors or purports to do so, or is the subject of an application under the Insolvency Act 1986 (or superseding legislation) for the sequestration of the Applicants estate or of a trust on behalf of the Applicant's creditors; or
 - b. the Applicant, being an unincorporated body is dissolved; or
 - c. the Applicant, being an incorporated body passes a resolution that the Applicant should be wound up, is ordered by the High Court to be wound up, has an administrator appointed by order of the Court, has an administrative receiver appointed, or being a company is struck from the register at Companies House.

Appendix Two

Discretionary Local Business Rate Relief Discount Application Form

Please complete all fields and supply supporting evidence where applicable

Account Reference number:	
Applicant name:	
Contact address:	
	Postcode:
Telephone number:	Mobile number:
Email Address:	
Address in respect of which application is made:	
Description / Type of business:	
How long have you been trading in West Devon?	
Number of staff employed?	Date lease due to expire?

Reasons why a local business rate relief discount should be awarded
Please state how the granting of a discount will support opportunities for new business growth, expansion and employment or the safeguarding of employment within the area:

Social or economic implications
What are the social or economic implications for the Borough?

Introduction of a Discretionary Local Business Rate Relief Discount Policy

Period and percentage of discount requested

Please state the period and percentage of discount requested:

Other support (Note, responses below should include where the applicant / business has premises in other parts of the country and where any business rate relief has been awarded)

Please give details of all other financial assistance that the business / organisation is receiving or has applied for, that could be considered as State Aid:

Please declare any financial assistance received by the applicant from any source in the last rolling three year period, that could be considered as State Aid:

Please attach (for the business and premises which will benefit from the Discretionary Local Business Rate Relief):

- ✓ The last two years of financial accounts
- ✓ A business plan (including growth forecast)
- ✓ Evidence of freehold ownership OR evidence of a minimum of seven years remaining on the lease of your commercial premises

I certify that the particulars given in this application are correct to the best of my knowledge and belief. By signing this form, I agree to the applicant / business being bound by the criteria detailed within the Discretionary Business Rate Relief Policy.

Name:

Position:

Signature:

Date:

Telephone number:

Email:

The billing authority will aim to make a decision regarding this application within four weeks of receipt of all supporting evidence considered necessary to enable the application to be considered.

Introduction of a Discretionary Local Business Rate Relief Discount Policy

Please Note:

- Business rates remain payable whilst any application is being processed
- Any discount awarded will only be for a defined temporary period
- You must provide any other supporting evidence deemed necessary as requested by the billing authority
- Incomplete applications will not be considered

Please return this completed form and the required supporting evidence to:

Business Rates Team
West Devon Borough Council
Kilworthy Park
Drake Road
Tavistock
PL19 0BZ

Or email to: businessrates@westdevon.gov.uk