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WEST DEVON OVERVIEW AND SCRUTINY COMMITTEE - TUESDAY, 20TH MARCH, 2012

Agenda, Reports and Minutes for the meeting

Agenda No Item

1. **Agenda Letter** (Pages 1 - 8)
2. **Reports**
 Reports to O&S:
 - a) Item 5 - The Localism Act - A Guide (Pages 9 - 20)
 - b) Item 7 - Broadband Task & Finish Group (Pages 21 - 22)
 - c) Item 9 - Committee Performance Report (Pages 23 - 32)
3. **Minutes** (Pages 33 - 36)

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Agenda Item 1

AGENDA – OVERVIEW & SCRUTINY COMMITTEE – 20th MARCH 2012

PART ONE - OPEN COMMITTEE

1. **Apologies for absence**
2. **Declarations of Interest**
Members are reminded to declare any personal or prejudicial interests they may have in any agenda items
3. **Items Requiring Urgent Attention**
To consider those items which, in the opinion of the Chairman, should be considered by the Meeting as matters of urgency.

	Page
4. Confirmation of Minutes Meeting held on 17 th January 2012 (previously circulated)	
5. The Localism Act – A Guide	8
6. Formation of the Meadowlands Task & Finish Group	
7. Broadband Task & Finish Group Regeneration Officer to report Notes of T&F Group meeting for Committee Members only	19
8. Tamar Valley Mining Heritage Project Regeneration Officer to report Briefing note for Committee Members only	23
9. Committee Performance Report Report of the Business Development Manager	26
10. Regulation of Investigatory Powers Act 2000: Report on Inspection and Authorisation Members to note that there have been no requests to use the powers under RIPA during the last quarter	

PART TWO ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF THE PUBLIC AND PRESS ON THE GROUNDS THAT EXEMPT INFORMATION IS LIKELY TO BE DISCLOSED (if any)

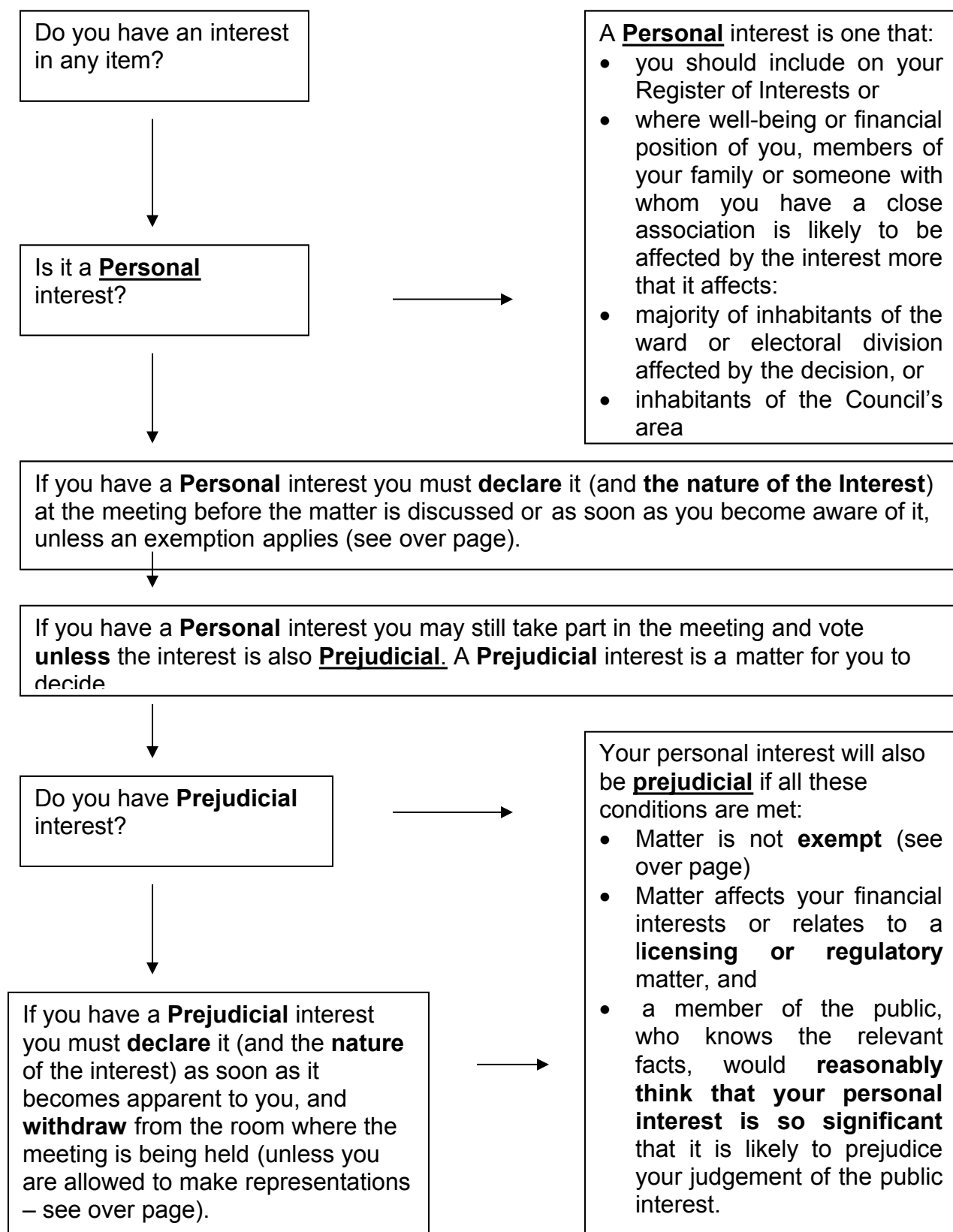
If any, the Committee is recommended to pass the following resolution:-

“**RESOLVED** that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the Meeting for the under-mentioned item(s) of business on the grounds that exempt information may be disclosed as defined in Part I of Schedule 12A to the Act”.

This document can be made available in large print, Braille, tape format, other languages or alternative format upon request. Please contact the Committee section on 01822 813662 or email arose@westdevon.gov.uk

West Devon Borough Council Members' Code of Conduct Declarations of interest

If you are in any doubt about what to do, please seek advice



West Devon Borough Council Members' Code of Conduct (see part 5 of the Constitution)

Personal Interests - You will have a personal interest in a matter if:

- anything that you should have mentioned in your Register and/or
- the well-being or financial position of you, members of your family, or people with whom you have a close association

is likely to be affected by the business of the Council more than it would affect the majority of the inhabitants of the ward or electoral division affected by the decision, or the inhabitants of the Council's area.

Exemption - An exemption applies where your personal interest arises solely from your membership (or position of control/management) on any body to which you were appointed/nominated by the Council or any other body exercising functions of a public nature. In such cases (unless you have a prejudicial interest) you only need to declare your interest if and when you speak on a matter.

Personal Interests include:

- Your membership/position of control/management in bodies to which the Council appointed/nominated you, or any bodies exercising functions of a public nature, directed to charitable purposes or whose principal purposes include influence of public opinion or policy, including any political party or trade union;
- Your job(s) or business(es), and the name of your employer;
- Name of any person who has made a payment towards your election expenses or expenses you have incurred in carrying out your duties;
- The name of any person, company/other body which has a place of business/land in the Council's area and in which you have a share of more than £25,000/stake of more than 1/100th of the share capital of the company;
- Any contracts with the Council between you, your firm or a company (of which you are a paid director) for goods, services or works.
- Any gift/hospitality estimated to > £25 and the name of the person who gave it to you;
- Any land/property in the Council's area in which you have a beneficial interest (or a licence to occupy) including the land and house you live in, any allotments you own or use.

Definitions

- "Well-being" - condition of happiness and contentedness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your well-being.
- "Member of your family" means a partner (i.e. your spouse/civil partner/someone you live with in a similar capacity), parent/parent-in-law, son/daughter, step-son/step-daughter, child of partner, brother/sister, grandparent/grandchild, uncle/aunt, nephew/niece, or the partners of any of these persons.
- Person with whom you have a "close association" means someone with whom you are in close regular contact over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour/ disadvantage when discussing a matter which affects them. It may be a friend, a colleague, a business associate or someone you know through general social contacts.

Prejudicial Interests - your personal interest will also be prejudicial if you meet conditions set out overleaf.

Exempt categories - you will not have a Prejudicial interest in a matter if it relates to:

(a) any tenancy/lease you hold with the Council (unless relating to your particular tenancy/lease); (b) Schools (meals/transport/travelling expenses): if parent/guardian of child in full time education or parent governor (unless relating to the school your child attends); (c) if you are receiving/entitled to statutory sick pay; (d) An allowance/payment/indemnity for members; (e) ceremonial honour given to members and (f) setting the council tax or precept.

Making representations - if you have a Prejudicial interest, you must declare that you have an interest and the nature of that interest as soon as the interest becomes apparent. You should leave the room unless members of the public are allowed to make representations, give evidence, or answer questions about the matter. If that is the case, then you can also attend the meeting for that purpose. However you must leave the room immediately you have finished and you cannot take part in the debate or vote.

Sensitive information

You may be exempt from having to declare sensitive information on your Register of interests in which case, although you must declare that you have an interest, you don't have to give any details about that interest on the register or to the meeting (please speak to the Monitoring Officer about this first).

Revised May 2007

Overview and Scrutiny Committee

General role

Within its terms of reference, the Overview and Scrutiny Committee will:

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and/or recommendations to the Council and any committee or joint committee in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants; and
- (iv) make reports and/or recommendations to the Council and/or its Committees and/or any joint committee on matters which affect the Council's area or the inhabitants of that area.

Specific functions

(a) Policy development and review

The Overview and Scrutiny Committee may:

- (i) review existing policy and recommend changes to such policy or the creation of new policy;
- (ii) assist the Council in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- (iii) conduct research, involve the community and carry out other consultation in the analysis of policy issues and possible options;
- (iv) consider and implement ways to encourage and enhance community participation in the development of policy options;
- (v) question members of committees and senior officers about their views on issues and proposals affecting the area; and
- (vi) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (vii) Regulation of Investigatory Powers – to review the Council's RIPA Policy and its use annually
- (viii) Consider internal reports on the use of RIPA on a quarterly basis.

(b) Scrutiny

The Overview and Scrutiny Committee may:

- (i) review and scrutinise the performance of committees and Council officers and decisions made both in relation to individual decisions and over time;

- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question members of committees and senior officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects when necessary;
- (iv) exercise the right to call-in, for re-consideration, decisions made but not yet implemented by any committee, where appropriate;
- (v) make recommendations to the appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (vi) review and scrutinise, with or without others, the performance and activities of other public bodies in the area on any relevant, general or specific issue; and
- (ix) question and gather evidence from any person (with their consent) when necessary.
- (x) Scrutinise the work of the Crime & Disorder Reduction Partnership (and the partners who comprise it, insofar as their activities relate to the Partnership)
- (xi) Scrutinise and investigate matters referred to O&S by any Member on Crime & Disorder issues of local concern raised under Councillor Call for Action

(c) **Performance Management**

The Overview & Scrutiny Committee shall be responsible for overseeing performance management of the Council, including the process of continuous improvement.

The Overview and Scrutiny Committee may:

- (i) oversee the co-ordination and conduct of the Best Value process in accordance with Section 5 of the Local Government Act 1999;
- (ii) take an overview of the performance monitoring throughout the authority and make recommendations;
- (viii) where appropriate, make recommendations to the relevant committee or to Council;

but the responsibility for service performance rests with individual committees.

Partnership arrangements

The Overview & Scrutiny Committee shall be responsible for the monitoring of partnership arrangements in accordance with the Council's Partnership Policy.

(e) **Finance**

The Overview and Scrutiny Committee shall exercise overall responsibility for the finances made available to it.

(f) **Annual report**

The Overview and Scrutiny Committee shall report annually to Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

Proceedings of Overview and Scrutiny Committees

The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

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The Localism Act- A Guide

Adapted from the LGiU's The Localism Act: An LGiU Guide



The Localism Act represents the legislative manifestation of the Government's Big Society agenda and the public sector reforms under the Open Public Services White Paper.



How far has the Act progressed? (late Feb 2012)

Certain provisions came into effect immediately or through the first Commencement Order on 2nd December 2011. The Second Commencement Order came into effect on 15th January 2012.

The Government's current estimate is that some parts of the Act will come into effect in April 2012, including some planning reforms. Other parts of the Act, including the Community Right to Challenge and Neighbourhood Planning, will come into effect in October 2012.

What are the new powers for Local Authorities?

The General Power of Competence:

The General Power of Competence (GPC) will replace the Well-being Power from April 2012, and is intended to provide Local Authorities - and Town and Parish Councils that meet certain minimum standards - with the same capacity to act as an individual.

The Government has emphasised that the intention is to:

- allow authorities to act in their own financial interest to generate efficiencies, secure value for money outcomes and to raise money by charging for discretionary services and trade in line with existing powers.
- allow authorities to engage in activities, ruled by the Court of Appeal in the 'London Authorities Mutual Ltd' (LAML) case, as outside the well-being power, such as providing certain indemnities and guarantees and engaging in speculative activities.

Potential uses of the Power: Decisions will be subject to the general law, and governed by the existing regimes on taxation, precepting and borrowing (including Prudential Borrowing). When using the GPC, any charges must not exceed the cost of provision of services taking one financial year with another. Authorities are unable to do anything for a commercial purpose unless they do so through a limited company. Anything which is a statutory obligation, or which Authorities could not otherwise do using the GPC, is also precluded. The Secretary of State (SoS) will have a power to amend or repeal future legislation that may prevent Local Authorities from using the Power.

Limits on the use of the Power: The SoS will have a reserve power to intervene and place limits on what Authorities can do with the GPC (note that a similar power under the Well-being Power was not used during the ten-year period it was in force).

The General Power of Competence was due to come into force in April 2012, however it was brought into force early in February, in response to a court case on prayers at council meetings.

Local Authority Governance Arrangements

The Committee system: Councils now have the option of adopting a Committee system. Authorities will be able to discharge their functions jointly with other Authorities or decide that certain functions will be discharged by another Authority. Authorities operating the Committee system are not required to operate a formal Overview and Scrutiny Committee. Requirements for health, flooding, and community safety scrutiny will apply to committee system authorities – these may be

the responsibility of a relevant Committee or of a separate Scrutiny Committee. A late amendment was agreed that makes it possible for councils to resolve to change their governance arrangements and implement those changes without waiting until after the next local election.

New forms of governance: The Act allows for the introduction of new forms of governance, by introducing a fourth option that makes it possible for councils (and others) to propose different arrangements to the SoS. Proposals under this section would need to demonstrate that the new governance arrangement represents an improvement, is likely to ensure that decisions are taken in an efficient, transparent and accountable way, and that it is applicable to all authorities or particular description of authority.

Scrutiny arrangements: At a late stage in the Lords a group of amendments were agreed which:

- Remove prescription about matters which may be referred to scrutiny by councillors who are not members of a scrutiny committee;
- Remove the link between local government scrutiny and local improvement targets in Local Area Agreements;
- Put the scrutiny committees in non-unitary district councils in an equivalent position to those of other authorities by allowing them to hold partner authorities to account.

The New Standards Framework

The Act abolishes the Standards Board regime, including the Standards Board for England and Standards Committees of Local Authorities. The new regime applies to Local Authorities, including Town and Parish Councils. All will be under a duty to *'promote and maintain high standards of conduct by members and co-opted members of the authority'*.

The duty will include an authority:

- Adopting a Code of Conduct which applies to Members when they are acting in their capacity as Members. An Authority may revise its existing code or adopt a new code to replace its existing code. Codes must be consistent with the Nolan principles, and include a requirement for Members to register and disclose pecuniary and non-pecuniary interests.
- Having in place arrangements for the investigation of allegations (which must be made in writing) and for making decisions.
- Appointing at least one independent person whose views must be sought by the authority before it makes a decision following an investigation, and who is also available to any individual whose conduct is under investigation. The Act places restrictions on who may be appointed as an independent person.
- Publicising the adoption of its Code of Conduct, and advertising for independent people to put themselves forward for appointment.

Sanctions for failing to comply with the Code are a matter for the Authority, which is responsible for deciding whether to take action, and what action to take. Principal Local Authorities will be responsible for administering the standards regimes of Town and Parish Councils in their areas – Towns and Parishes will be required to adopt their own Code of Conduct.

Monitoring officers are required to maintain the register of pecuniary and non-pecuniary interests.

The new scheme is likely to be introduced on 1st July 2012.

What are the new Community Rights?

Council Tax Referendum

Local Authorities will be required to hold a referendum if calculations, based on principles determined annually by the SoS, result in council tax that is 'excessive'. An Authority that wishes to propose a council tax increase that exceeds that allowed by the principles set by the SoS will be required to produce a substitute set of figures (shadow budget), which will apply if their main proposal is not approved in a referendum.

Local Authorities will be required to conduct referendums on behalf of precepting authorities, but they will be able to recover their costs. Those entitled to vote in local elections will be entitled to vote in a referendum on council tax.

This policy was in force for the 2012/13 budget setting process

Community Right to Challenge

The Right to Challenge allows for Town or Parish Councils, voluntary and community organisations, not-for-profits, charities and social enterprises to trigger a procurement process by expressing an interest in providing, or assisting in the provision of, council services. It will also be possible for two or more Local Authority employees to put forward an expression of interest (note no local connection is needed for any challenge). This Power should be seen in the context of the Open Public Services White Paper, which is intended to open up public services to private and third sector providers.

The process: On receipt of an application, the Council will consider whether to accept or reject the proposal (with possible modifications). In reaching a decision, it will be necessary to consider the social, economic or environmental implications of the proposal. In the case of acceptance, the Council will carry out a normal

procurement exercise for the service - on a scale proportionate to the value and nature of the service - again taking account of its social, economic or environmental potential.

Councils will be responsible for setting the timetable, taking account of budgetary and decision making requirements, though the factors to be considered will be covered in guidance. It will be a requirement to publish details of the local framework to govern this process, and of certain stages in the process of an application.

The government estimates that this power should come into effect in October 2012. No date has yet been given for publication of regulations and guidance. A decision is pending on which, if any services, may be exempt from the scheme.

List of Assets of Community Value

Town and Parish Councils and local voluntary and community organisations will be able to nominate local land or buildings to be included in a List of Community Assets maintained by Local Authorities.

What is an asset of community value? A property/asset will be included where its current primary use furthers the social wellbeing or social interests of the local community, and where it is realistic to think that this use will continue. Social interests include culture, recreation and sport. A property will also qualify when it has been in such use in the recent past, and this may realistically recur within the next five years (whether or not in the same way as before). Regulations will exclude certain buildings or land – primarily wholly residential premises - and will allow the Local Authority to determine where the regulations apply to a particular property.

What are the District/Borough Councils' responsibilities? Councils must collate and publish the List of Assets and will also need to maintain lists of properties where nominations have failed in accordance with a five-year timetable. Local Authorities will be responsible for notifying owners and occupiers of listings and receipt of notices, and for publicising the possible sale of a listed asset. It will be necessary for neighbouring councils to cooperate where a property falls in more than one Local Authority area.

What are the implications of this Power? The effect of inclusion on the List will be to require the owner of the property to notify the Local Authority when intending to dispose of the listed asset. This will trigger a moratorium period during which community interest groups can apply to be treated as potential bidders. The owner will be able to begin the sale process after an interim period of six weeks if no bidder has come forward, if a written intention to bid is received in that time then the full six month moratorium period will apply. An eighteen month protection period has also been created: if this expires before the property is sold the original notification process must start again.

The proposal involves considerable interference in private rights, which are protected to some degree by the owner of a listed property being able to request a review of the listing, and by the introduction of an interim moratorium period. A property will

only remain on a List for five years, when a further application would need to be made. Listing will be recorded on the Land Registry. The Act provides rights of review and appeal on the listing of a property, and makes provision for compensation to be paid to landowners for losses arising from being involved in a lengthier sale period.

The Secretary of State has considerable Henry VIII powers to change the scope of the scheme- a situation that needs to be kept under closer control. DCLG are working on a revised impact statement including estimated costs to Local Authorities for maintaining the list and managing the scheme. DCLG have stated that the costs will be met by DCLG.

A series of regulations are required to put this Community Right into effect; these include closer definition of local community interest groups, reviews of listing decisions and owner's appeals, excluded transactions and excluded properties, arrangements for compensation and enforcement provisions. This Power is expected to come into force in October 2012.

What are the reforms to Planning?

The Act sets out the abolition of regional spatial strategies (RSS) as part of the planning framework and the return of powers over housing and planning matters to Local Planning Authorities (LPA).

Community Infrastructure Levy

The Act retains the Community Infrastructure Levy (CIL) but includes some provisions for communities to have more control over how the Levy is spent and how that spending is monitored (the government is currently consulting on regulations related to this change).

Neighbourhood Planning

In summary, the act creates provisions for Town and Parish Councils or neighbourhood forums to:

- prepare Neighbourhood Development Plans that, if they pass certain tests such as aligning with existing plans and receiving a majority in a local referendum, will be adopted and become a material consideration;
- put forward Neighbourhood Development Orders to secure planning permission for developments they support.

Local people can choose to draw up either a Plan, or a Development Order, or both.

A "neighbourhood development plan" is a plan which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan.

A "neighbourhood development order" is an order which grants planning permission in relation to a particular neighbourhood area specified in the order.

Examination: Once a Neighbourhood Plan or Order has been prepared, an independent examiner will check that it meets the right basic standards.

A Draft Order meets the basic conditions if—

- (a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order,*
- (b) having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order,*
- (c) having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order,*
- (d) the making of the order contributes to the achievement of sustainable development,*
- (e) the making of the order is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),*
- (f) the making of the order does not breach, and is otherwise compatible with, EU obligations, and*
- (g) prescribed conditions are met in relation to the order and prescribed matters have been complied with in connection with the proposal for the order.*

If it fails the check, the LPA needs to consider the examiners views and decide whether to make those changes. If the changes are significant, the Town or Parish Council may decide whether to consult their local community again before proceeding.

Referendum: If the NDP or NDO meets the basic standards, the District/Borough Council will organise a referendum. Electors living in the parish/town concerned will be entitled to vote. In certain cases where the proposals put forward impact on a neighbouring area, people from affected neighbourhoods may be allowed to vote. If more than 50% of people voting in the referendum support the Plan or Order, then the local planning authority must bring it into force.

Implications: An adopted NDP will be taken as a material consideration in planning decisions by the LPA. An adopted NDO will grant planning permission for development that complies with the Order. Planning permission granted by a NDO, can be subject to conditions or limitations, which are specified in the Order. Regulations may make provisions entitling Town and Parish Councils, in prescribed circumstances, to require any application for approval with conditions to be determined by them instead of a LPA.

Regulations, yet to be published, will make provisions for the content of a NDP and detail further the role of the LPA, including making provisions for the payment by a LPA of remuneration and expenses of the examiner.

Neighbourhood Planning is expected to be enforced from October 2012.

Community Right to Build: A Neighbourhood Development Order is a Community Right to Build Order, if it is made by a community organisation. Community organisations can make a Community Right to Build Order in areas of a Town or Parish Council, if more than half of the members of the organisation live in the neighbourhood area.

The Duty to Co-operate in relation to planning of sustainable development:

Each person who is:

- a) A local planning authority,*
- b) A county council that is not a local planning authority, or*
- c) A body, or other person, that is prescribed or of a prescribed description,*

Must cooperate with every other person who is within paragraph a), b) or c) in maximising the effectiveness with which the following activities are undertaken:

- *The preparation of DPDs,*
- *The preparation of Marine Plans under the Marine and Coastal Access Act 2009*
- *Activities that are considered to prepare for the above and activities that support the above.*

This Duty requires Councils to engage constructively, actively and on an ongoing basis in any process by which the above are undertaken.

Nationally significant infrastructure projects

The main change here is that applications for consent for development of major infrastructure projects will now be decided by the Secretary of State, following a recommendation by a planning inspector from the Major Infrastructure Planning Unit. Currently these decisions are made by the independent Infrastructure Planning Commission, which will close and be replaced by the Major Infrastructure Planning Unit. The Major Infrastructure Planning Unit will sit within the Planning Inspectorate and continue to use the framework set out by the national policy statements. The government says that this change will 'return democratic accountability to major infrastructure applications'.

What are the reforms to Social Housing?

The most significant changes for Authorities are, that they can:

- offer homeless people tenancies in private sector accommodation instead of being obliged to offer social housing;
- offer new social housing tenants shorter, fixed-term (minimum two year) tenancies;
- decide who goes on housing waiting lists, with central government setting out who it feels has the greatest housing needs;
- keep rental income to spend on housing investment locally.

The government says that the changes set out in the Act will give Local Authorities 'the flexibility to better manage their housing stock by adapting to meet local needs'.

Social Housing Provisions

Allocation: The Act allows councils to set criteria for whom they will accept onto social housing waiting lists, and to refuse to allow people who do not qualify to join the list. Every Local Housing Authority (in England) needs to prepare an Allocation Scheme which sets out their priorities for determining housing need (for example, the Act says that 'reasonable preference' should be given to homeless people, people occupying unsanitary or overcrowded housing, people who need to move on medical needs and so on). The allocation scheme should also set out the procedure a local housing authority will follow for allocating housing accommodation.

Homelessness: A key change relating to homelessness is that councils can fulfil their duty to someone who is homeless and has a 'priority need' (such as having dependents) by offering them a single privately rented housing tenancy for one year. Previously, councils were obliged to offer a social housing dwelling unless the tenant asked for a private sector one.

Social Housing: Local Housing Authorities must now prepare a Tenancy Strategy to guide decisions social landlords working in their area make on:

- the kinds of tenancies they grant
- the circumstances in which they will grant a tenancy of a particular kind
- the length of tenancies
- the circumstances in which they will grant another tenancy when an existing one expires.

For new social housing tenants, landlords can now issue fixed-term ('flexible') tenancies: social housing no longer comes with a 'tenancy for life'. The length of the fixed term has been subject to much debate, and guidance on how this should be applied is still vague. However, the Act does set a minimum of two years.

Social Housing Regulation: There are also reforms to how the social housing sector is regulated. The Act paves the way for Tenant Panels, which social landlords will be expected to support, whose purpose is to 'refer complaints against the social landlord'. Social housing tenants will now have a single body to contact when making complaints about their landlord: the Independent Housing Ombudsman (previously they could also contact the Local Government Ombudsman). This change aims to achieve greater consistency across the social housing sector.

Social housing tenancy exchanges: The government has announced the launch of HomeSwap Direct, a national home swap scheme for social housing tenants. The service means that social housing tenants will be able to search an online database of all available properties. The government says that this service will help social housing tenants to 'find a home that better meets their needs and to exercise greater control over their lives'.

Self Financing: The Localism Act enacts the legislation required to replace the Housing Revenue Account Subsidy System with self-financing for council housing, which will come into force in April 2012. Local authorities will now keep the rent they collect from social housing tenants and use it to maintain housing locally.

Reform of social housing regulation: the second Commencement Order (Jan 12) included initial legislative preparations for the formal implementation of changes on 1st April 2012.

Policy	Actions	Responsibility	Timescale
General Power of Competence	Assessment of the potential uses of the Power	Legal	April
Governance Arrangements	Assimilation of all information on Governance and implications and opportunities for both Authorities.	Legal and Member Services	April
Standards	Develop a 'local code' and arrangements for the investigation of allegations and decisions. Advertise and appoint at least one independent person for consultation on investigations. Publish the Code. Work with Local Town and Parish Councils to administer their schemes.	Legal	Work on going, expected to be completed by July.
Council Tax Referendum	Monitor 'excessive' principles as set by SoS during budget setting process.	Finance & Elections	Already in force
Community Right to Challenge	A comprehensive business plan to enable the Councils to be ready to receive challenges to deliver our services.	Community and Procurement	Awaiting Regulations expected to be enforced Oct 2012.
List of Assets of Community Value	A defined method to develop the List, to include assessing assets, receiving requests from communities, moratorium, sale of assets and processing compensation claims from landowners. A business plan for the long term maintenance and five year review of the List. An agreed method and Strategy for Asset Transfer.	Community and Assets	Awaiting Regulations expected to be enforced Oct 2012.
Community Infrastructure Levy	Monitor guidance and develop a charging schedule. Consult with community on charging schedule.	Strategic Planning	Late 2012 / Early 2013
Neighbourhood Planning	A defined method to deliver, engage, advise and support communities in the development of effective Neighbourhood Plans across South Hams and West Devon, abiding by our Duty to Support (within the Act). A defined appropriate method for inspecting Neighbourhood Plans to ensure aligned with Local Plans. A plan to handle referenda to support Neighbourhood Plans. A defined method for processing Neighbourhood Development Orders / Community Right to Build Orders.	Strategic Planning and Community	Awaiting Regulations expected to be enforced Oct 2012.
Social Housing	Understand all the requirements and prepare an Allocation Scheme and Tenancy Strategy	Housing Advice	Expected April 2012

Timetable for Implementation (subject to further Regulations)

LEISURE CONTRACT MANAGEMENT SCRUTINY PANEL - SUGGESTED TERMS OF REFERENCE

To learn from the recent experience at Meadowlands and to satisfy itself that the Council:

1. has had a Contract in place with the Leisure Provider that makes it absolutely clear who has responsibility for repairs and maintenance of the building, plant and equipment;
2. has been fulfilling its obligations under the Contract and its responsibilities under Health & Safety legislation;
3. has had suitable arrangements in place to monitor the Leisure Provider to ensure that the buildings, plant and equipment are being maintained safely and according to the terms of the Contract;
4. has established who is responsible for the costs of temporary closure, the interim boiler replacement and the longer term renewal of the boilers within the terms of the Contract.
5. has a scheduled long term repair and replacement programme in place and that suitable capital and revenue provision is made to fund the programme;
6. has used its recent experience and applied any lessons across the range of facilities it manages/owns.

The Panel to be made up of Members from Audit and Overview & Scrutiny Committees; all three political groups represented, excluding Members that have previously been involved in the Contract or the Asset Management Group (on the basis that they may be invited to give their views to the Scrutiny Panel) plus serving Officers and former Officers where they agree to attend.

Tracy Winser, Corporate Director, to support the Group.
Scrutiny to Report to Council on 17 April 2012.

Richard Sheard
5 March 2012

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NAME OF COMMITTEE	Overview & Scrutiny
DATE	20 March 2012
REPORT TITLE	Committee Performance Report
Report of	Corporate Improvement Officer
WARDS AFFECTED	All Wards

Summary of report:

To provide Members with information on those key indicators where performance was 10% or more below target at the end of Quarter 3 2011-12.

Financial implications:

The financial implications in this report relate to the key performance indicators where income has been at least ten per cent below target as detailed in section 2.4 and Appendix B.

RECOMMENDATIONS:

Members note the key performance indicators for quarter 3 that were significantly below target and decide if any areas should be reviewed.

Officer contact:

Jim Davis, Corporate Improvement Officer, Jim.Davis@swdevon.gov.uk

1. BACKGROUND

- 1.1 The Council's key projects and performance targets are set out each year in its corporate planning documents and these are monitored quarterly by the four frontline Committees using Committee Performance Reports.

- 1.2 Where poor performance is identified, this is also reported to the Overview & Scrutiny Committee who may wish to review the performance of these indicators with the relevant Committee chair.

2. ISSUES FOR CONSIDERATION

- 2.1 Appendix A gives a snapshot of performance against all key indicators for quarter 3.

2.2 Appendix B sets out in more detail those key indicators where performance for the quarter was ten percent or more below the target. For each indicator the following information is made available:

- Actual performance for West Devon for 10-11
- Performance for months in Q3 and Q1-3 performance
- Year to date performance
- Relevant comments on the performance from the Officer responsible for the indicator

2.3 There are four indicators that are now 10% or more below target:

- Processing of planning applications: Major applications
- Working days lost to sickness (% of sickness that is long term is included for context)
- Percentage of calls answered on 20 seconds
- Time taken to process Benefit claims

2.4 There are two financial indicators that are now expected to end the year more than 10% below budget:

- Income collected – Land Charges
- Income collected – Planning applications and appeals

2.5 The Single Data Set has been introduced which is a single transparent list of every piece of data that central government requires from Councils. Performance indicators which are of use to the Council will continue to be collected and reported on until new measures are introduced by the Council. A project reviewing performance measures is underway and will include a range of new internal indicators that more appropriately align with our processes. A decision will need to be made by the O & S Committee if any of the new performance measures should be reported to them.

3. LEGAL IMPLICATIONS

3.1 Within the Constitution, the Overview & Scrutiny Committee oversees performance management at the authority to ensure that poor and deteriorating performance is addressed.

4. FINANCIAL IMPLICATIONS

4.1 The financial implications in this report relate to the key performance indicators where income has been at least ten per cent below target as detailed in section 2.4 and Appendix B.

5. RISK MANAGEMENT

5.1 The risk management implications are:

Opportunities	Benefits
Accurate performance management information enables the authority to effectively manage its services and meets its targets for service delivery.	Reporting of performance against targets means that the authority can ensure that resources are targeted towards key priority areas and that projects are completed.
Issues/Obstacles/Threats	Control measures/mitigation
There can be delays with the collation of performance information as certain performance indicators due to their nature take time to compile.	Information is made available as soon as it is collated. The Senior Management Team monitor key performance indicators on a quarterly basis to ensure that they are on track to meet their target.
There may be factors which result in projects not being completed on schedule or delayed until the following financial year.	The reports include responsible Officer comments and these should detail the reasons behind any delay or changes to the projects.

6. OTHER IMPLICATIONS

Corporate priorities engaged:	Community Economy Environment Housing
Statutory powers:	Local Government Act 2000
Considerations of equality and human rights:	There are no equality implications as a result of this report.
Biodiversity considerations:	There are no biodiversity implications as a result of this report.
Sustainability considerations:	There are no sustainability implications as a result of this report
Crime and disorder implications:	There are no crime and disorder implications as a result of this report.
Background papers:	
Appendices attached:	Appendix A – Balanced Scorecard- Quarter 3 Appendix B – Performance Exception Report- Quarter 3

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West Devon Borough Council

CUSTOMER FIRST

	NI 157a % of major planning app's determined within 13 weeks
	NI 157b % of minor planning app's determined within 8 weeks
	NI 157c % of other planning app's determined within 8 weeks
	BV 204 % of planning appeals allowed
	NI 181 Days for processing HB /CTB claims avg (new + change of circs)
	NI 181 ii Number of Benefit claims

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THE ORGANISATION

	BV 12 Working days lost due to sickness absence
	PP5 % staff turnover
	BV 8 % invoices paid on time
	BV 9 % of Council tax collected
	BV 10 % of NNDR collected
	BV 12d % of sickness that is long term

COUNCIL PRIORITIES

Environment

	NI 192 % of household waste sent for reuse, recycling and composting
	NI 191 Residual household waste per household

Homes

	NI 156 No. of households living in temp accommodation
	NI 155 No. of affordable homes delivered
	BV 213 No. of households where homelessness prevented

Community Life

	CST 3 No. of visitors to Outreach
	CST 5 % of calls answered in 20 seconds
	CST 4 % of calls answered

FINANCE

	Income Collected- Car Parks (cumulative)
	Income (Actual) Employment Estates
	Income Collected - Land Charges
	Income Collected - Applications and Appeals
	Income Collected - Building Control
	Investment Income

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O&S PI Report – Quarter 3


PI Status	
	More than 10% off target
	Data Only – No target value

Theme 02. Benefits



PI Code & Short Name	Managed By	2010/11	October 2011	November 2011	December 2011	Q1 2011/12	Q2 2011/12	Q3 2011/12	2011/12		Note	Status	Origin
		Value	Value	Value	Value	Value	Value	Value	Value	Target			
NI 181 Time taken to process Housing Benefit/Council Tax Benefit new claims and change events	Gill Bray	10.1	12.6	14.1	17.4	14.9	13.6	14.8	14.4	13.0	A considerable amount of work is currently being undertaken to review the complex processes in place to assess benefit claims. A new Benefits Team Manager is now in place and will be addressing some performance management issues as well as reviewing existing resources in view of increased and changing workloads.		West Devon
NI181 ii Number of benefit claims	Gill Bray	12,954	866	1,094	1,003	3,318	3,143	2,963	9,424	-			West Devon

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Theme 04. Planning

PI Code & Short Name	Managed By	2010/11	October 2011	November 2011	December 2011	Q1 2011/12	Q2 2011/12	Q3 2011/12	2011/12		Note	Status	Origin
		Value	Value	Value	Value	Value	Value	Value	Value	Target			
BV109a NI 157a Processing of planning applications: Major applications	Malcolm Elliott	63.64%	0.00%	100.00%	0.00%	28.57%	0.00%	50.00%	40.00%	60.00%	6 Major applications: 3 completed in 13 weeks, all in November		West Devon



Theme 08. Personnel

PI Code & Short Name	Managed By	2010/11	October 2011	November 2011	December 2011	Q1 2011/12	Q2 2011/12	Q3 2011/12	2011/12		Note	Status	Origin
		Value	Value	Value	Value	Value	Value	Value	Value	Target			
BV12 Working Days Lost Due to Sickness Absence (average days per full-time equivalents)	Jan Montague	4.38	Collected for Quarters only			2.38	2.12	1.97	6.47	4.88	Total of 225.5 days 160.5 days of short term absence - 33 staff with 51 instances. Total days for year = 773.5 of which 250 were long term		West Devon
BV12d Percentage of sickness that is long term	Jan Montague	22.2%	Collected for Quarters only			36.92%	30.14%	28.83%	32.32%	-	65 days of long term absence - 1 staff= 0.57 per FTE		West Devon

Theme 09. Customer Services

PI Code & Short Name	Managed By	2010/11	October 2011	November 2011	December 2011	Q1 2011/12	Q2 2011/12	Q3 2011/12	2011/12		Note	Status	Origin
		Value	Value	Value	Value	Value	Value	Value	Value	Target			
CST1a CST Grade of Service (% of calls answered within 20 seconds)	Kate Hamp	66%	62%	70%	70%	74%	68%	70%	70.7%	80%	This is a self imposed target that is used for benchmarking purposes. A figure of over 70% of calls answered in 20 seconds is rated amongst the top for Councils in the South West.		Joint

Theme 10. Financial Information for West Devon

Page 31	PI Code & Short Name	Managed By	Actual	Quarter 3		Forecast Variance		Note
			2010/11	Q3 2011/12		Forecast Variance		
			Value	Budget Expected Value	Current Forecast	£	% (+/-)	
	Income Collected - Land Charges	Lisa Buckle	£73,000	£93,000	£78,000	-£15,000	-16.1%	The actual income achieved in the 9 months to 31 st December 2011 was £56,000 against a budgeted income level of £70,000. Costs will be managed to mitigate any underachievement of income.
	Income Collected - Planning Applications and Appeals	Lisa Buckle	£265,000	£301,000	£226,000	-£75,000	-24.9%	In the budget setting process it was expected that new legislation was to be introduced to planning. The proposed changes to the planning application fees regime would decentralise responsibility for setting fees to local planning authorities. However this legislation has not materialised in time for 2011/12 and the income is therefore not achievable this year. The increase in planning fees for the new legislation predicted in the budget was £50,000. In addition, overall planning fee income levels are lower than expected and therefore the predicted over spend is £75,000

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Agenda Item 3

At a Meeting of the **OVERVIEW & SCRUTINY COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the 20th day of **MARCH 2012** at **2.00 pm**.

Present: Mr D W Cloke – Chairman
Mr D Whitcomb – Vice-Chairman
Mr R E Baldwin

Corporate Director (AR)
Policy Implementation Officer
Business Development Manager
Community Manager
Regeneration Officer
Committee & Ombudsman Link Officer

In attendance: Mr M Harper

O&S 21 APOLOGIES FOR ABSENCE

Apologies for absence were received from Mrs K A Clish-Green and from Mrs L Rose.

***O&S 22 CONFIRMATION OF MINUTES**

The Minutes of the Meeting held on 17th January 2012, were confirmed and signed by the Chairman as a correct record.

***O&S 23 THE LOCALISM ACT – A GUIDE**

The Committee received and noted the guide to the Localism Act prepared by the Policy Implementation Officer together with an action plan for implementing certain parts of the Act. The plan would be updated as and when Government guidance was published. The Regulations relating to Neighbourhood Planning were published in March, with the remaining regulations for the Community Powers expected in October 2012.

In relation to the Council's 2015 Programme three strands of work would need to be addressed in terms of what can and what must be done. The Localism strand includes preparation for the Localism Act, effective community engagement and the potential devolution of services. Work had commenced on the Localism Act Project and would be developed in the light of Government guidance and local needs.

***O&S 24 FORMATION OF THE MEADOWLANDS TASK & FINISH GROUP**

Arising from a recent informal meeting of the Council, the Chairman reported that it had been suggested that the Overview & Scrutiny Committee establish a Task & Finish Group to look into the performance of the leisure contract with particular reference to the operation of the Meadowlands Leisure Pool in the light of the recent malfunction of plant.

The Chief Executive had prepared a suggested Terms of Reference for the Task & Finish Group which included a proposed report back to Council on 17th April 2012, and that membership should not include those

Members who formally served on the Members' Group on the Leisure Connection Contract. The Group Leaders had been asked to nominate Members to serve on the Group.

It was **RESOLVED** that the Leisure Management Task & Finish Group be established comprising Councillors D Cloke, D Whitcomb, R Baldwin, K Ball, M Harper and A Leech and that the suggested terms of reference as prepared by the Chief Executive be adopted, a copy of which is attached to the signed copy of these Minutes.

It was **FURTHER RESOLVED** that the Group's initial meeting would be held on Thursday 22nd March 2012.

***O&S 25 BROADBAND TASK & FINISH GROUP**

The Committee received and noted the notes of the Joint Access to Next Generation Broadband Task & Finish Group meeting held on 27th February 2012 (page 19 to the Agenda).

The Chairman raised the issue of the future of the Task & Finish Group as it had completed that task set for it, however, there was still work to do which would be better served by a working group with a revised remit. A similar consideration was to be discussed at South Hams District Council and the Chairman expressed his contentment at the Group continuing as a working group.

It was **RESOLVED** that the proposal for the Task & Finish Group changing to a Working Group with revised terms of reference and remit be supported.

***O&S 26 TAMAR VALLEY MINING HERITAGE PROJECT**

The Committee received and noted the briefing note prepared by the Regeneration Officer (page 23 to the Agenda) updating the Members on the Tamar Valley Mining Heritage Project. The briefing note also contained answers to a number of pertinent questions previously submitted by a Member of the Committee. In addition to the printed answers, the Committee was further advised by the Regeneration Officer that the budget contained sufficient funds for planned works, maintenance of the footpaths should be covered by income generated at the Sawmills car park in Gulworthy.

It was **RESOLVED** that the report be noted.

***O&S 27 COMMITTEE PERFORMANCE REPORT**

The Committee received and noted the Performance Report as presented by the Corporate Improvement Officer (page 26 to the Agenda) and suggested that, where appropriate, income estimates be reviewed to be more reflective of sums more realistically achievable.

Arising from the discussion, the Community Manager reported on a proposal discussed with the Chairman that progress on the Connect

Strategy and the four supporting delivery plans be reported to the Overview & Scrutiny Committee on a twice yearly basis and a draft annual update of each be considered by the Committee before formal approval by the Community Services Committee. Under the new scrutiny arrangements, the Committee would also have the ability to invite outside organisations/bodies to contribute to the discussion where appropriate as these plans are shared with partner organisations.

It was anticipated that progress would be reported to the Committee in March and October each year and the draft annual updates presented for consideration in March each year.

It was **RESOLVED** that the report and the proposals for scrutiny of the Connect Strategy and delivery plans be noted.

(The Meeting terminated at 3.20 pm.)

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