

NAME OF COMMITTEE	Overview and Scrutiny Committee
DATE	29 October 2013
REPORT TITLE	Review of the process and decisions that led to the Judicial Review Judgement relating to the former Focus DIY Store, Tavistock Retail Park, Plymouth Road, Tavistock
Report of	Focus Review Working Group
WARDS AFFECTED	Tavistock

Summary of report:

This report advises Members of the conclusion of the work of the Focus Review Working Group.

Financial implications:

There are no direct financial implications from this report which is for information only.

RECOMMENDATIONS:

It is recommended that the Overview and Scrutiny Committee note the conclusion of the work of the Focus Review Working Group and the subsequent decisions made by Council at its meeting on 8 October 2013.

1. BACKGROUND

1.1 On 16 April 2013, Council received a report from the Chief Executive which responded to previous reports in relation to the Focus site, and which recommended a review of the process and decisions that led to the unfavourable High Court Judgement.

1.2 The report suggested that a Review Group be formed to investigate the process and decisions that led to the Judgement, and a report taken back to Overview and Scrutiny Committee on 4 June 2013, with a final report being taken to Council on 30 July 2013.

2. MATTERS FOR CONSIDERATION

2.1 In accordance with the recommendations within the Chief Executive's report, a Working Group was formed which comprised of: Cllrs Benson, Leech, Morse, Musgrave and Sampson. The Group first met on 7 May 2013 and the Chief Executive and Deputy Monitoring Officer were in attendance.

- 2.2 The Group agreed Terms of Reference which were along the same lines as the scope of the review as originally stated in the Chief Executive's report.
- 2.3 At the initial meeting, the Working Group also discussed the papers that they would like to see, to enable them to understand the processes that had been followed. Further information was also requested in advance of the next meeting of the Working Group, which was scheduled to take place on 20 May 2013.
- 2.4 In considering the papers provided, the Working Group was aware of the tight timescale within which to conduct their work, and felt that an interim report to Overview and Scrutiny Committee on 4 June 2013 was appropriate, with a final report being taken to Council on 30 July 2013. However, in order that full and proper attention was given to all aspects of the Review, the Group then advised that their final report would be presented to Council on 8 October 2013.
- 2.5 The Working Group met on a number of occasions, and other Members were consulted for their views. A final report was then presented to Council on 8 October 2013, where the recommendations of the Working Group were unanimously agreed.
- 2.6 For ease of reference, the agreed recommendations are shown below:
- A protocol should be put in place to guide working practices between the Legal Department and the Planning Department
 - Bi-monthly meetings with the Head of Planning, Economy and Community and the Link Lawyer, and monthly meetings with the Development Manager and the Link Lawyer, should be recorded/noted
 - In cases where JR or other serious litigation proceedings are contemplated by the Council or brought against the Council there needs to be an initial meeting of senior officers and regular face to face meetings to ensure that matters are dealt with promptly and all issues fully explored.
 - On any occasion where officers feel it necessary to brief Members on a significant issue which has legal, financial or reputational impact, a file note should be made and kept
 - Early consideration should be given by the Head of Planning Economy and Community to the public interest in these cases so that the Ward Members and other key Members are properly informed. Agreement can then be reached on the level of input required of Members
 - Reports to Members should include all options and an explanation of the potential impact and merits of each option.

3. LEGAL IMPLICATIONS

- 3.1 None over and above the matters considered in the High Court.

4. FINANCIAL IMPLICATIONS

- 4.1 None other than the costs involved in bringing this matter to the High Court and the costs awarded to the interested party which fall within the budgeted sum.

5. RISK MANAGEMENT

- 5.1 There are no risk implications as the report is for information only.

Corporate priorities engaged:	Community Life; Economy
Statutory powers:	Section 2 of the Local Government Act 2000
Considerations of equality and human rights:	None
Biodiversity considerations:	None
Sustainability considerations:	None
Crime and disorder implications:	None
Background papers:	Planning applications 01575/2011 dated 11 July 2011 and 9215/2006/TAV dated 2 April 2007. Correspondence held by the Development Management team, the Monitoring Officer and the Deputy Monitoring Officer save those items which are protected by legal professional privilege which are not discloseable to the public. Report to Council of the Deputy Monitoring Officer – 17 April 2012 Report to Council of the Head of Planning, Economy and Community – 15 May 2012 R (Peel Land and Property Investments Plc) vs Hyndburn Borough Council and others [2012] EWHC Report to Council of the Chief Executive – 16 April 2013 Report to Council of the Focus Review Working Group – 8 October 2013
Appendices attached:	None