



Committee: OVERVIEW AND SCRUTINY COMMITTEE

Date: WEDNESDAY, 25 OCTOBER 2023

Venue: MORECAMBE TOWN HALL

Time: 6.00 P.M.

Councillors are reminded that as Members of Overview and Scrutiny they may not be subjected to the Party Whip, which is prohibited under the Lancaster City Council Constitution.

A G E N D A

1. Apologies for Absence

2. Minutes

Minutes of the Meeting held on 6th September, 2023 (previously circulated).

3. Items of Urgent Business authorised by the Chair

4. Declarations of Interest

To receive declarations by Councillors of interests in respect of items on this Agenda.

Councillors are reminded that, in accordance with the Localism Act 2011, they are required to declare any disclosable pecuniary interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting).

Whilst not a legal requirement, in accordance with Council Procedure Rule 9 and in the interests of clarity and transparency, Councillors should declare any disclosable pecuniary interests which they have already declared in the Register, at this point in the meeting.

In accordance with Part B Section 2 of the Code Of Conduct, Councillors are required to declare the existence and nature of any other interests as defined in paragraphs 8(1) or 9(2) of the Code of Conduct.

5. Update on LGA Peer Challenge Review regarding Planning (Pages 3 - 21)

Report of Chief Officer - Planning & Climate Change Development Management.

6. Discussions with the Cabinet Member with Responsibility for Housing and Homelessness

The Cabinet Member with Responsibility for Housing and Homelessness has been invited to the meeting to discuss her Portfolio.

7. Work Programme Report (Pages 22 - 31)

Report of Chief Officer – Governance.

8. Forthcoming Key Decisions

The List of Forthcoming Key Decisions can be viewed [here](#)

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors Brett Cooper (Chair), Jack Lenox (Vice-Chair), Suhir Abuhajar, Martin Gawith, Chris Hanna, Paul Hart, Abi Mills, Sue Penney and John Wild

(ii) Substitute Membership

Councillors Martin Bottoms, Hamish Mills and James Sommerville

(iii) Queries regarding this Agenda

Please contact Jenny Kay, Democratic Services - email jkay@lancaster.gov.uk.

(iv) Changes to Membership, substitutions or apologies

Please contact Democratic Support email democracy@lancaster.gov.uk.

MARK DAVIES,
CHIEF EXECUTIVE,
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Published on 17th October, 2023.

OVERVIEW AND SCRUTINY COMMITTEE**Local Government Association
Planning Peer Challenge – Quarterly Update****25 October 2023****Report of Chief Officer – Planning and Climate Change****PURPOSE OF REPORT**

To consider the Update Report regarding the recent Planning Peer Challenge.

This report is public.

RECOMMENDATIONS

- (1) **That Members note the Update Report.**

1.0 Background

- 1.1 This is the second Quarterly Update Report following Lancaster City Council's Peer Challenge (November 2022). The Peer Challenge was requested by the City Council, and it was co-ordinated by the Local Government Association (LGA), working with the national Planning Advisory Service (PAS). The aim of the Peer Challenge was to independently review the local planning authority's operations and performance and consider how it can respond to the present and future challenges.
- 1.2 Details of the Peer Challenge process, including the LGA/PAS report (January 2023) and the City Council's subsequent response (the Implementation Plan 2023/24) were set out at the 12 July 2023 Overview and Scrutiny Meeting. Both documents were appended to the July Meeting report.

2.0 Update Report

- 2.1 The Update Report Table is appended to this covering report. It provides details of progress in addressing the recommended actions. Each workstream is given a Red, Amber, Green (RAG) rating.

3.0 Conclusion

- 3.1 The LGA/PAS Peer Challenge was a positive experience for internal and external participants, with some pleasing outcomes. The recommendations of this independent review were fair.

3.2 The next Update Report will be provided in January 2024.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing):

Some of the measures described in the Implementation Plan 2023/24 will have a positive impact in terms of service delivery, particularly regarding accessing relevant planning application information.

LEGAL IMPLICATIONS

There are no legal implications stemming from this report.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

OTHER RESOURCE IMPLICATIONS, such as Human Resources, Information Services, Property, Open Spaces

None, all recommendations can be addressed within current resources.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no comments to add.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no comments to add.

BACKGROUND PAPERS

- Update Report Table, October 2023

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Ref: N/A

Planning Peer Challenge: Implementation Plan

Update Report: October 2023

This Update Report Table includes the following Red, Amber, Green (RAG) rating to illustrate workstream progress.

Red Rating	Workstream not yet started
Amber Rating	Workstream started and continuing
Green Rating	Workstream completed

Each RAG rating is accompanied by explanatory text, which sets out the activities in each workstream (in **bold**) and the progress made so far (in *italics*).

Workstream	Progress to Date	RAG Rating
<p>A:</p> <p>Review the operation of Planning Regulatory Committee</p>	<p>Several matters in Workstream A were the subject of consideration by the Informal Planning Task Group (Winter 2022/Spring 2023), which had previously been established by Overview and Scrutiny Committee. The findings of this Group’s work were presented to Cabinet on 11 April 2023. Cabinet agreed with some findings, rejected others and noted the remainder.</p> <p>Workstream A comprised:</p> <ul style="list-style-type: none"> <p>Develop a forward planning mechanism for briefing the Chair and Planning Group Leaders regarding upcoming Committee items.</p> <p><i>The PRC Group Leader and Chair’s Briefing provides an effective mechanism for this. The Service Manager and Planning Applications Manager are also empowered to provide advance briefings on any upcoming, complex planning applications.</i></p> <p><i>There is ongoing work (October 2023) regarding potentially extending the Committee Briefing to all Members of PRC, rather than just Chair, Vice-Chair and Group Leads.</i></p> <p>Produce new, consistent scripts for Committee meetings</p> <p><i>The Chair of PRC has a revised script for Committee meetings.</i></p> <p>Review length of committee reports and accompanying presentations</p> <p><i>This review has taken place. With the exception of existing, longstanding major cases which have a complex planning history, committee reports are more commensurate with the scale/complexity of development being proposed. Case Officers are briefed by Managers before presentation to ensure that their own presentations to PRC do not repeat the report (i.e. it assumes that PRC Members have read the report before attending Committee).</i></p> 	<p>The review of Planning Regulatory Committee is almost complete.</p>

Officers will continue to take soundings from Members periodically to ensure that reports and presentations do not increase unnecessarily in length and complexity.

- **Develop the existing member training and support arrangements for Planning Committee, including the introduction of review meetings**

*A more detailed training programme for Planning Regulatory Committee Members has been established. This started with a mandatory session regarding planning decision-making and the national planning system. More recent training sessions have been open to all Members and include (separate) subject-specific issues such as flooding and drainage, enforcement, the local plan, and the housing land supply. Other training sessions are set out in the training programme, **details of which are appended to this Update Report as 'Elected Member Training Schedule 2023/24'**.*

- **Review current Planning Committee speaking arrangements to better manage speaking time (instead of unlimited number of speakers)**

This is the lone outstanding action in Workstream A. It will involve informal discussion with PRC Members. Should there be a consensus to alter the public speaking arrangements, then this will be explored in a further, public report.

- **Consider a review of the Scheme of Delegation to reduce the number of items being determined at Committee.**

PRC is rarely inundated with planning applications. The scheme of delegation was considered by the Informal Planning Task Group and subsequently Cabinet (11 April 2023). Both agreed that the existing scheme struck the appropriate balance between ensuring timely planning application decision-making (in accordance with national timescales), and the necessary consideration of strategic major planning applications at Committee level. A reduction of the

	<p><i>number of items at Committee, as suggested by the Peer Review, was therefore not considered appropriate.</i></p> <ul style="list-style-type: none"> • Fix an agreed procedure for defending Committee overturns at any subsequent planning appeal (noting the Institute’s professional Code of Conduct) <i>Officers have not yet finalised the options for this piece of work.</i> <p>Additional work (i.e. over and above the identified tasks in Workstream A) have also considered:</p> <ul style="list-style-type: none"> • <i>That there should be no change to the system of calling-in planning applications. This was a recommendation of the Informal Planning Task Group and was subsequently endorsed by Cabinet in April 2023.</i> • <i>Clearer guidance for making observations on planning applications was provided in November 2022, and is available on the Council’s website.</i> • <i>The location of Planning Regulatory Committee will remain unchanged at Morecambe Town Hall. This is to enable future meetings to be live streamed at some point during 2024.</i> 	
<p>B:</p> <p>Review the operation of the Local Plan Review Group (LPRG) prior to further (new) policy production</p>	<ul style="list-style-type: none"> • Revisit the terms and reference of LPRG to determine the purpose of the Group going forward <i>The terms and reference of LPRG was revised and agreed at the 20 September 2023 LPRG meeting.</i> • Consider the membership arrangements of LPRG <i>A call for new Members followed the May 2023 Local Elections. Membership was capped at Chair + 10 Members, and the membership includes a diverse range of political representatives. The 20 September meeting was a successful reset of LPRG.</i> 	<p>The review of LPRG is complete.</p>

	<ul style="list-style-type: none"> • Agree the forward plan for LPRG meetings for 2023/34 including a review of report length and content <i>Future meetings will usually be bi-monthly but will not be fixed in advance due to the need (occasionally) to be reactive to national planning announcements. This was agreed by the new membership of the LPRG in September 2023.</i> 	
<p>C:</p> <p>Align corporate priorities with the priorities of the Planning and Place (now Planning and Climate Change) Service</p>	<ul style="list-style-type: none"> • Determine methods for ensuring aligned priority delivery (taking into account remodelled service delivery post-senior leadership team restructure) <i>The work undertaken by the Local Government Association in with Cabinet and the Council's Senior Leadership Team concluded on 28 September 2023. This work provided greater clarity regarding the corporate priorities of the Cabinet, and work will now conclude in aligning these priorities within the Service.</i> • Embed shared priorities within Service teams via training <i>This officer training is envisaged to be delivered by the end of the calendar year.</i> 	<p>The conclusion of the LGA work now enables delivery of Workstream C.</p>
<p>D:</p> <p>Undertake the (already scoped) review of the planning enforcement service.</p>	<ul style="list-style-type: none"> • Implement the next phases of the Planning Enforcement Recovery Plan (2022), including: <ul style="list-style-type: none"> (a) Review Enforcement Charter, including expediency flowchart and timescales and match with existing resources; <i>A draft revised Local Planning Enforcement Plan (to replace the existing Enforcement Charter) has been drafted. It will be presented to Planning Regulatory Committee for formal consideration in early 2024.</i> 	<p>The review of the planning enforcement service is ongoing.</p>

(b) Produce new standard letters with flexibility for all circumstances;

The Planning Systems Manager has been working with the Enforcement Team to produce new templated letters.

(c) Consider whether other forms of digital communication might be deployed;

This will include more updated website advice and greater use of social media to report on prominent cases (i.e. those that have been the subject of court decisions).

(d) Empower PEOs to be taking expediency decisions rather than Planning Officers (includes greater awareness of Development Plan);

This is ongoing. The imminent retirement of a long-serving Planning Enforcement Officer will necessitate further expediency-related training (for the subsequent, new postholder).

(e) Review length of electronic file records and methods of recording meetings/dialogue on cases.

This will be implemented following agreement of the revised standards in the draft Local Planning Enforcement Plan.

(f) Consider approaches to educating agents and architects re: enforcement responsibilities, especially condition compliance. Restructure of decision notices may assist;

Restructure of decision notices is problematic given current software. A more likely course of action will be discussion of enforcement at a future Developer Forum (see later workstream for details of this).

	<p>(g) Handover of casework from Senior Planning Enforcement Officer (SPEO) to Planning Enforcement Officers (PEOs) with the exception of major strategic cases. <i>This work has started but has not yet completed due to the imminent retirement of one of the PEOs (which necessitates some case work retention by the SPEO).</i></p> <ul style="list-style-type: none"> <p>Recruit to vacant existing Planning Enforcement Graduate role to bolster capacity <i>The role has now been advertised and the recruitment process is ongoing. Candidates had been shortlisted at the time of compiling this update report.</i></p> <p>Review longstanding enforcement cases to clear historic work as much as possible <i>This process has been overseen by the Service Manager for Development Management and the Senior Planning Enforcement Officer, and it has resulted in a considerable reduction of longstanding cases.</i></p> 	
<p>E: Seek greater liaison with developers, inward investors and/or partners.</p>	<ul style="list-style-type: none"> <p>Ongoing monitoring of new pre-application planning service via feedback forms and other methods <i>This is not live yet but a new feedback inbox has been set up and a monitoring form created. Currently looking at the potential to include QR codes to create digitally accessible feedback opportunities.</i></p> <p>Re-establish the Agents' Forum <i>The Service has decided to expand the Forum to local developers (as well as local agents). A provisional date has been agreed internally for December 2023 and arrangements are in place to send out the invitations. Thereafter, the Forum will operate on a twice yearly basis and will aim to inform attendees about changes to legislation; Local Plan updates, and strategic project updates.</i></p> 	<p>Some activities in this Workstream have been completed.</p>

	<ul style="list-style-type: none"> • Consider the establishment of a Partners’ Board or Forum to help deliver the local regeneration and growth agenda (and attract inward investment). <i>This is a larger piece of work that involves collaboration with strategic partners. A (very early) internal discussion has considered how this could be established, and further options will be developed before the end of 2023.</i> 	
<p>F:</p> <p>Make the planning system more accessible to external users and improve communication</p>	<ul style="list-style-type: none"> • Review and consider various methods for improved communication with communities, Parish and Town Councils <i>The use of improved mapping has potential to improve the provision of information to the local community (particularly about planning application decisions and appeal decisions). See below (digital forms of communication) for an update regarding this. Further work is required regarding new ways of engaging with Town/Parish Councils particularly regarding changes to legislation.</i> • Review all outgoing literature (reports, policy documents, etc) and ensure that planning jargon is, as far as is possible, minimised. <i>Work in the Planning Enforcement Team has started (review of outgoing correspondence). Once completed this will be expanded to other Teams.</i> • Assess what further improvements can be made to website and other digital forms of communication <i>Digital mapping is now provided in one location on the website. This provides access to Neighbourhood Plan Area mapping; the mapping of over 1300 Listed Buildings, all Scheduled Ancient Monuments and Conservation Areas and Registered Parks and Gardens; the mapping of Non-Designated Heritage Assets; and the mapping of planning application decisions and appeal decisions (which can be filtered to specific date/time searches).</i> 	<p>The website improvements (given that this is often the first port of call for advice) have taken priority. Other activities within the workstream will be completed.</p>

	<p><i>Some of the most-used parts of the Planning webpages have been reviewed and updated since the Peer Review to improve accessibility. These include the 'Do I Need Permission' pages; the 'Pre-Application Advice' pages; the 'Designations and Constraints' pages (which explain about Listed Buildings, Conservation Areas, Tree Preservation Orders, Article 4 Directions, etc); the 'Planning Enforcement' pages; Neighbourhood Planning; and the Local Plan pages.</i></p> <p><i>A new 2023 digitally interactive Housing Land Monitoring Map has also been provided. The map shows sites that are included in the council's calculation of a five-year housing land supply.</i></p>	
<p>G:</p> <p>Review processes and priorities to ensure best use of officer time commensurate with agreed service priorities.</p>	<ul style="list-style-type: none"> • Review length of delegated reports and templates <i>Length of delegated reports has been reviewed internally. Further template modification being considered.</i> • Review existing consultee list <i>Not yet commenced (also affected by pending changes to national planning system)</i> • Reconsider role of internal consultees (especially with Service) and devise strategy for communication, rather than formal consultation <i>Fewer internal consultation within the Service are being sent out, with a greater emphasis being placed on internal collaboration/problem-solving. Work continuing.</i> • Review what standing advice can be agreed with consultees and within our own Service documents <i>This is currently difficult to achieve due to resourcing challenges (for external consultees). Internal standing advice template work will commence early in 2024.</i> 	<p>This workstream has very different strands, most of which have started (others have not, for the reasons stated).</p>

- **Review other examples of local authority policy production, to compile good practice with an aim to move away from detailed policy development where practicable**

This approach will be at the heart of our new Local Plan Review.

- **Review end-to-end planning application (and other similar consenting regimes) process**

Planning application work activity plans are identified and help guide officers to produce timely decision-making.

- **Review existing planning conditions and seek to reduce quantum (whilst ensuring fit-for-purpose from an enforcement perspective)**

This is a significant piece of work that due to resource issues has not yet started.

- **Review structure and appearance of Decision Notices**

This is dependent upon future decisions regarding service provider (IT systems) that are due to be taken prior to 31 March 2024.

- **Review length of committee reports and accompanying presentations**

This review has taken place. With the exception of existing, longstanding major cases which have a complex planning history, committee reports are more commensurate with the scale/complexity of development being proposed. Case Officers are briefed by Managers before presentation to ensure that their own presentations to PRC do not repeat the report (i.e. it assumes that PRC Members have read the report before attending Committee).

<p>H:</p> <p>Explore corporate opportunities to create improved delivery vehicle for strategic and other major sites</p>	<ul style="list-style-type: none"> • Assess the current range of projects and strategic sites and agree priorities commensurate with resources • Agree roadmap to delivery with clear milestones • Establish multi-disciplinary projects teams to assist with delivery (informed by outcome of Senior Leadership Team restructure) <p><i>The tasks above relate to (a) the City Council's own strategic sites/properties; and (b) externally owned strategic sites (such as major housing land allocations).</i></p> <p><i>It is considered that an internal officer group, meeting on a regular basis (suggested 6-weekly) would provide the opportunity for Senior Leadership Team, Service/Team Managers and other senior specialists to have early input into the City Council's corporate strategic site projects, to ensure that priorities, resources, and delivery milestones are agreed. Multi-disciplinary teams would be established in each individual case.</i></p> <p><i>Once established, a similar group would be considered to assist with external strategic site delivery.</i></p>	<p>This workstream has been the subject of an initial, informal discussion with Cabinet and Senior Leadership Team (September 2023) but has yet to formally start.</p>
<p>I:</p> <p>Work alongside Lancashire County Council and other strategic partner to explore delivery challenges in South Lancaster</p>	<ul style="list-style-type: none"> • Increase the work with strategic partners to agree a preferred way forward on developer contributions in South Lancaster <p><i>The County Council decision regarding the Housing Infrastructure Funding (HIF), which was supported by the City Council, means that there is no currently deliverable strategic transport infrastructure intervention proposed in South Lancaster. Therefore, this workstream has been overtaken by events. Developer contributions for planning applications in the South Lancaster area will be considered on the same basis as contributions in other parts of the district.</i></p>	<p>This workstream has advanced due to announcements at both the City and County Council (June-September 2023)</p>

	<ul style="list-style-type: none"> Agree preferred options and roadmap to delivery with partners, establishing clear milestones <i>The City Council's decision to cease work on the Lancaster South Area Action Plan, and commence a full Local Plan Review, has been approved by Cabinet (12 September) and endorsed via Council (27 September). The new Local Plan will determine what form of development should now emerge in South (and Central) Lancaster.</i> Establish a new multi-disciplinary project team for South Lancaster (which includes external partners) to assist with strategic delivery <i>The City and County Councils have met to discuss future transport infrastructure issues (which in turn would facilitate much-needed housing delivery in the district). There is no involvement of external partners at this stage, until a new 'project' emerges.</i> 	
<p>J:</p> <p>Review wider developer contribution position across the district as part of the plan-making process</p>	<ul style="list-style-type: none"> Create an officer group to review mechanisms for securing financial and non-financial developer contributions and prepare options for consideration <i>This is the second stage of the process – not yet commenced – the first stage is highlighted below.</i> Review governance of section 106 contributions <i>Work has been undertaken with the support of the Planning Advisory Service to understand the baseline position regarding the developer contributions process. This requires further work to be done regarding:</i> <ul style="list-style-type: none"> (a) <i>Greater senior officer strategic oversight in developer contribution collection, monitoring and spend;</i> (b) <i>The establishment of formal internal structures to enhance the City Council's co-working in developer contributions;</i> (c) <i>The delivery of consistent stakeholder engagement on the allocation of developer contributions;</i> 	<p>This workstream has commenced, but further detailed work is necessary.</p>

	<ul style="list-style-type: none"><i>(d) The establishment of regular meetings with the County Council regarding contributions;</i><i>(e) Consideration of a Community Infrastructure Levy;</i><i>(f) Consideration of how Elected Members could be involved in developer contribution decision-making; and,</i><i>(g) Maintaining an up-to-date policy and evidence to underpin developer contribution decisions;</i><i>(h) Investment in new IT systems and databases to ensure greater certainty regarding data (possibly supplemented by new charging regimes for monitoring of Section 106 Agreements)</i><i>(i) More structured approach towards integrating the use of developer contributions within the Council's Capital Programme.</i>	
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Elected Member Training Schedule 2023/24

Planning and Climate Change Service

Topic	Who For?	Trainer, Training Date and Venue
<p>Planning Regulatory Committee (PRC) Training <i>In-person training event which will cover all aspects of the planning application process, including material planning considerations, pre-determination/pre-disposition; planning conditions; reasons for refusal and other related procedural matters.</i></p> <p>Training Delivered</p>	<p>Mandatory training for all PRC Members and Substitute Members, to allow them to take their seat on the May meeting of the PRC</p>	<p>Led by Service Manager – Development Management</p> <p>Friday 26 May 1100-1300 Committee Rooms 1 and 2, Morecambe Town Hall</p>
<p>New Councillors - Introduction to Planning <i>An online course delivered by the national Planning Advisory Service (PAS), working with the Local Government Association (LGA). It aims to provide an overview of planning, giving some clarity to its complexities and highlighting the different roles that Elected Members have when interacting with planning processes.</i></p> <p>Training Delivered</p>	<p>This training session is open to all Elected Members</p>	<p>External – Led by Planning Advisory Service.</p> <p><i>Pre-registration to attend is necessary. Please pre-register via:</i> https://www.local.gov.uk/our-support/councillor-and-officer-development/councillor-hub/events-new-councillors</p> <p>Wednesday 31 May 1000-1100 Online</p>
<p>Responding to the Climate Emergency <i>A virtual training event which will provide an overview of how the Council is aiming to be net zero by 2030, whilst encouraging others across the district to reach the same goal.</i></p> <p>Training Delivered</p>	<p>This is a single training session held over two half-days (i.e. different content on each day) The training opportunity is open to all Elected Members</p>	<p>Led by APSE (Association for Public Excellence) and supported by the Service's Climate Change Teams</p> <p>Monday 24 July 1300-1630 Online</p> <p>Followed by, Tuesday 25 July 0900-1230 Online</p>

<p>Planning Regulatory Committee – Material Considerations regarding Drainage</p> <p>Training Delivered</p>	<p>This training session is for all PRC Members and Substitute Members</p>	<p>Led by Service Manager – Development Management</p> <p>13 September – Input from Laura Bigley Lead Local Flood Authority, Principal Flood Risk Officer In-person</p>
<p>Planning Enforcement <i>An in-person training event that will explain local authority approaches to planning enforcement, including what constitutes a breach of planning control, what circumstances is it expedient to pursue a planning breach, and what remedies are available.</i></p> <p>Training Delivered</p>	<p>This training session is open to all Elected Members</p>	<p>Led by Senior Planning Enforcement Officer</p> <p>Tuesday 26 September In-person Morecambe Town Hall</p>
<p>What is a Local Plan? <i>In-person training event explaining what the purpose of a Local Plan is, and how important it is in guiding decision-making regarding land use and development in the district. The training will also explain the different stages of plan production, consultation and examination.</i></p> <p>Training Delivered</p>	<p>This training session is open to all Elected Members. It is strongly advised that all PRC Members and Substitute Members, and Local Plan Review Group Members attend</p>	<p>Led by Service Manager – Planning & Housing Strategy</p> <p>Tuesday 3 October 1400-1530 Banqueting Room, LTH</p>
<p>How do we calculate and manage a housing land supply? <i>In-person training event which will explain the methodologies for calculating the local housing need. The training will demystify matters regarding the 5-year housing land supply, the Housing Delivery Test, and implications if housing delivery is not maintained.</i></p> <p>Training Delivered</p>	<p>This training session is open to all Elected Members. It is strongly advised that all PRC Members and Substitute Members, and Local Plan Review Group Members attend</p>	<p>Led by Service Manager – Planning & Housing Strategy</p> <p>Tuesday 17 October 1000-1130 Online</p>

<p>What is Biodiversity Net Gain? <i>A virtual training event that will discuss the purpose of the national Biodiversity Net Gain strategy, who it affects, and how it influences policy-making and planning decision-making.</i></p>	<p>This training session is open to all Elected Members. It is strongly advised that all PRC Members and Substitute Members, and Local Plan Review Group Members attend</p>	<p>Led by Service Manager – Planning & Housing Strategy</p> <p>Wednesday 22 November 1400-1530 Online</p>
<p>Planning Regulatory Committee – Material Considerations regarding Development Viability</p>	<p>This training session is for all PRC Members and Substitute Members</p>	<p>Led by Service Manager – Development Management</p> <p>Supported by CP Viability Date TBC – Likely January 2024 Online</p>
<p>Planning Regulatory Committee – Material Considerations regarding Highway Matters</p>	<p>This training session is for all PRC Members and Substitute Members</p>	<p>Led by Service Manager – Development Management</p> <p>Was planned for 9-10 November 2023 – but postponed due to Lancashire County Council Highways Officer leaving post</p> <p>Date TBC – Likely January 2024</p>
<p>What is affordable housing and how do we achieve it? <i>In-person training event which will examine the concept and definitions of affordable housing, exploring the relationship between the housing strategy and local planning policy, and how we work with Registered Providers, with and without section 106 Contributions, to achieve affordable housing on development sites throughout the district.</i></p>	<p>This training session is open to all Elected Members</p>	<p>Led by Principal Housing Strategy Officer</p> <p>5th December 2023 1000-1130 Online</p>
<p>Planning Regulatory Committee – Material Considerations regarding Place-Making and Design</p>	<p>This training session is for all PRC Members and Substitute Members</p>	<p>Led by Service Manager – Development Management</p> <p>Date TBC</p>

<p>What are heritage assets and how do we take account of them when making planning decisions?</p> <p><i>An in-person training event that explains what a Conservation Area is (including Conservation Area Appraisals & Assessments and Conservation Management Plans); the difference between Listed Buildings and Non-Designated Heritage Assets; the concepts of 'significance' and 'harm'; and the impacts of the National Planning Policy Framework when assessing 'less than substantial harm' vrs 'public benefits'.</i></p>	<p>This training session is open to all Elected Members</p>	<p>Led by the Heritage and Design Team</p> <p>Date TBC</p>
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OVERVIEW AND SCRUTINY COMMITTEE**Overview and Scrutiny Committee – Work Programme****25th October 2023****Report of Chief Officer - Governance****PURPOSE OF REPORT**

To consider the Work Programme report.

This report is public.

RECOMMENDATIONS

- (1) That Members note the updated Work Programme, as detailed in Appendix A.
- (2) That the Committee consider the updates below.

1. Introduction

The Committee is responsible for setting its own annual Work Programme within the terms of reference, as set out in the Council's Constitution.

Members are requested to consider and note the updated Work Programme attached at Appendix A that has been produced and consider the updates set out below.

2. Updates

The Committee is asked to consider including within its Work Programme a referral from full Council in September regarding Fair Tax. Attached at Appendix B is the original motion, the Officer briefing note and the minute.

Council resolved :-

- (1) Given the legal and financial risks identified in the officer briefing note and, in particular, those in relation to the Public Contracts Regulations 2015, Council is asked to refer the matter for further, more detailed, consideration by the Overview and Scrutiny Committee.
- (2) Council notes that Overview & Scrutiny Committee's terms of reference include making suggestions on the review and development of policy and requests that any report arising is fed back into Cabinet for its consideration ahead of any final decision by full council as soon as reasonably possible.

RELATIONSHIP TO POLICY FRAMEWORK

There are no direct implications as a result of this report.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

There are no direct implications as a result of this report.

LEGAL IMPLICATIONS

The Overview and Scrutiny Committee has overall responsibility for the performance of all Overview and Scrutiny functions (under the Local Government Act 2000) on behalf of the Council and ensuring its effectiveness.

Overview and Scrutiny Procedure Rule 9 (a) advises that the Overview and Scrutiny Committee and Budget and Performance Panel will be responsible for setting their own Annual Work Programme within the Terms of Reference set out in Part 2, Section 5, 9 and 10 of the Constitution.

Implications regarding Fair Tax are contained in the attached Officer Briefing Note (attached within Appendix B).

FINANCIAL IMPLICATIONS

There are no financial implications as a direct result of this report. Any further reports on specific issues contained within the Work Programme will require further consideration of the financial implications.

Implications regarding Fair Tax are contained in the attached Officer Briefing Note (attached within Appendix B).

OTHER RESOURCE IMPLICATIONS, such as Human Resources; Information Services; Property; Open Spaces:

None.

SECTION 151 OFFICER'S COMMENTS

The S151 officer has been consulted and has no comments to add.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments to add.

BACKGROUND PAPERS

None.

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Appendix A - Overview and Scrutiny Committee Work Programme 2023-2024

<u>Matter for Consideration</u>	<u>Detail</u>	<u>Expected Date of Meeting</u>	<u>Outcomes</u>
Housing and Homelessness	<p>Invite the Cabinet Member with Responsibility for Housing to the meeting to discuss her portfolio and the issues that had been raised previously.</p> <p>Request a briefing note on Social Housing White Paper 2020 to be circulated with the agenda.</p>	25 th October 2023.	
Update on LGA Peer Challenge Review regarding Planning.	Update report form the Chief Officer – Planning and Place.	25 th October 2023.	
Crime and Disorder meeting.	<p>Annual Crime and Disorder meeting. Invite relevant Cabinet Member.</p> <p>Committee requested to submit topics for discussion in advance of the meeting.</p> <p>Invite the Police and request an update report from the Community Safety Partnership.</p>	15 th November 2023.	
Environmental Services	Invite Cabinet Portfolio Holder to the December meeting to discuss their portfolio – to include an update on the Grassland Management, Green Bins and a review of the Recycling Working Group.	6 th December 2023.	
Property Portfolio	<p>i. an update report regarding non housing property maintenance and repairs be requested to be considered in the New Year.</p> <p>ii. a list of the Council's assets be circulated to the Committee.</p>	17 th January 2024.	
Eden Project North	Request a progress report.	2024	
Health Care meeting	<p>That with regard to the Annual Health Care meeting, an update on the current model of the Health Care System be requested.</p> <p>The Committee would then consider if an annual meeting was required.</p>	2024	
Air Quality Management Areas	Add to Work Programme for a Teams Briefing in 2024.	2024	
Flooding in Lancaster - Lancaster City Surface Water Management Plan.	Request an update from County Council.		
Cabinet – Scrutiny Protocol	Statutory guidance on Overview and Scrutiny in Local and Combined Authorities.	New Municipal Year.	

Appendix B

BRIEFING NOTE

MOTION: Motion on Fair Tax.

This Council notes that:

1. The pressure on organisations to pay their fair share of tax has never been stronger.
2. Polling from the Institute for Business Ethics finds that “corporate tax avoidance” has, since 2013, been the clear number one concern of the British public when it comes to business conduct.
3. Two thirds of people (66%) believe the Government and local councils should at least consider a company’s ethics and how they pay their tax, as well as value for money and quality of service provided, when awarding contracts to companies.
4. Around 17.5% of public contracts in the UK have been won by companies with links to tax havens.
5. It has been conservatively estimated that losses from multinational profit-shifting (just one form of tax avoidance) could be costing the UK some £17bn per annum in lost corporation tax revenues.
6. The Fair Tax Mark offers a means for business to demonstrate good tax conduct and has been secured by a wide range of businesses across the UK, including FTSE-listed PLCs, co-operatives, social enterprises and large private businesses.

This Council believes that:

1. Paying tax is often presented as a burden, but it shouldn’t be.
2. Tax enables us to provide services from education, health and social care, to flood defence, roads, policing and defence. It also helps to counter financial inequalities and rebalance distorted economies.
3. As recipients of significant public funding, local authorities should take the lead in the promotion of exemplary tax conduct; be that by ensuring contractors are paying their proper share of tax, or by refusing to go along with offshore tax dodging when buying land and property.
4. Where councils hold substantive stakes in private enterprises, influence should be wielded to ensure that such businesses are exemplars of tax transparency and tax avoidance is shunned.
5. More action is needed, however, as current and proposed new UK procurement law significantly restricts councils’ ability to either penalise poor tax conduct (as exclusion grounds are rarely triggered) or reward good tax conduct, when buying goods or services.
6. UK cities, counties and towns can and should stand up for responsible tax conduct - doing what they can within existing frameworks and pledging to do more given the opportunity, as active supporters of international tax justice.

This Council resolves to:

1. Approve the Councils for Fair Tax Declaration.
2. Lead by example and demonstrate good practice in our tax conduct, right across our activities.
3. Ensure IR35 is implemented robustly, and contract workers pay a fair share of employment taxes.
4. Not use offshore vehicles for the purchase of land and property, especially where this leads to reduced payments of stamp duty.
5. Undertake due diligence to ensure that not-for-profit structures are not being used inappropriately by suppliers as an artificial device to reduce the payment of tax and business rates.

6. Demand clarity on the ultimate beneficial ownership of suppliers UK and overseas and their consolidated profit & loss position, given lack of clarity could be strong indicators of poor financial probity and weak financial standing.
7. Promote Fair Tax Mark certification especially for any business in which we have a significant stake and where corporation tax is due.
8. Support Fair Tax Week events in the area and celebrate the tax contribution made by responsible businesses are proud to promote responsible tax conduct and pay their fair share of corporation tax.
9. Support calls for urgent reform of UK procurement law to enable local authorities to better penalise poor tax conduct and reward good tax conduct through their procurement policies.

PROPOSERS:

Cllrs Joanne Ainscough and Jean Parr.

OFFICER BRIEFING NOTE:

By signing up to the Councils for Fair Tax Declaration, Councils need to demonstrate alignment to the Fair Tax Foundation values and encourage responsible tax practice through:

1. Leading by example on their own tax conduct;
2. Demanding to know who owns and profits from businesses the Council buys from – United Kingdom (UK) and overseas, and their full financial reports; and
3. Joining calls for UK public procurement rules to change so that Councils can do more to tackle tax avoidance and award points to suppliers that demonstrate responsible tax conduct.

Points 1 and 3 above do not cause any obvious concerns at this point. However, some of the details regarding the specific resolutions covered by 2 require further exploration. This note provides high level commentary on each of the specific resolutions as included in the original Motion.

Lead by example and demonstrate good practice in its tax conduct of Lancaster City Council and its trading companies.

The wholly-owned trading companies of the Council (More Homes for the Bay – Development & More Homes for the Bay – Investment) are currently not trading and so have limited expenditure outside of its statutory obligations for filing of accounts etc. However, once trading commences the nature of its transactions may well fall into the categories outlined in this motion and have resource implications.

Ensure IR35 is implemented robustly such that contract workers pay a fair share of employment taxes.

There are IR35 procedures in place within the Council to guide Managers when appointing consultants/ agency staff. Managers are required to carry out the IR35 checks via the governments online checking process, delivering a verdict which is then documented as part of the recruitment process. To date there has been limited examples of recruitment falling within IR35, and in each instance indemnity insurance has been obtained from the individuals to protect the Council from any future tax liability.

Avoid offshore vehicles for the purchase of land and property.

The utilisation of offshore holding companies is common amongst property owners. If the Council wishes to acquire land and property, we have no control over the legal entity which owns that property who may be selling it. There could be a key piece of land for regeneration or housing for example that is required and so approval of this element of the motion this may

have unintended consequences for the Council. However, demonstrating good practice as per point 2 of the Motion should provide some comfort in this regard.

Undertake due diligence to ensure that not-for-profit structures are not being used inappropriately by suppliers to reduce the payment of tax and business rates and Demand clarity on the ultimate beneficial ownership of suppliers and their consolidated profit & loss position.

Financial appraisals of potential suppliers focus on an organisation's financial viability and do not take an ethical view.

The Public Contracts Regulations 2015 (PCR 2015, regulation 57) provide for contracting authorities to exclude a supplier if they are aware, it is in breach of its obligations relating to the payment of taxes or social security contributions, where the breach has been established by a judicial or administrative decision.

Issues in relation to tax avoidance are significantly more complex. The PCRs do not make provision for discretionary exclusion based on concerns such as tax arrangements or beneficial ownership. Current procurement legislation only allow exclusion in very limited circumstances. Basing companies offshore, or other legal grounds to minimise tax are not legitimate grounds to exclude a company from a procurement and would therefore not be compliant with the PCR 2015. Excluding suppliers on this basis would be non-compliant and therefore expose the Council to the risk of legal challenge from any supplier excluded from the procurement process on this basis.

Complex ownerships structures are becoming common even for smaller, locally owned operations who are restructuring businesses in order to mitigate costs and maintain profit margins; and large multinational corporations with complex tax arrangements, such as Microsoft ,or Amazon, who are known to have non-UK based headquarters to benefit from alternative taxation regimes and complex beneficial ownership and offshore activities.

Undertaking the level of due diligence required to evaluate bidders and manage suppliers based on their tax arrangements would require a level of skill and capacity not currently available, within Finance, Legal or Procurement. Therefore, even if there were a legal route available to achieve this, there would be a direct cost of undertaking.

These examples highlight how adoption of this element of the original motion could have significant unintended consequences, and where the decisions to examine suppliers would be influenced by subjective decisions.

Researching the response to this motion highlighted that although many Councils have signed the Councils for Fair Tax Declaration, in doing so they have made adjustments to the wording of this element of the Declaration.

Promote Fair Tax Mark certification especially for any business in which we have a significant stake and where corporation tax is due.

Fair Tax Accreditation is a paid accreditation, with costs ranging from £299 - £20,000 (exc. VAT) which could have a disproportionate impact on Small and Medium Enterprises (SMEs)and the Voluntary, Community and Social Enterprise Sectors (VCSEs) sectors. It also is likely that the Council would see this cost included in the tender price.

If the Council was to require a supplier to have accreditation it could represent a procurement risk in terms of not treating all suppliers equally and fairly. For those suppliers who may have tax efficient ways of working, which are legal, this may mean they are unable to get the accreditation. The Council cannot endorse or promote one form of accreditation over another, therefore the Council would have to accept any comparable accreditation.

Support Fair Tax Week events in the Lancaster District and celebrate the tax contribution made by businesses who pay their fair share of corporation tax.

The Fair Tax Foundation's website describes Fair Tax week as: "A UK-wide recognition of the

companies and organisations that are proud to promote responsible tax conduct and pay their fair share of corporation tax”.

The Council could consider what activities planned for Fair Tax week 2024 it could support when details are published for 2024.

Support calls for urgent reform of UK procurement law to enable local authorities to better penalise poor tax conduct and reward good tax conduct through their procurement policies.

Government consultation regarding the changes to procurement regulations is now closed, so it is unclear what route the Fair Tax Foundation is seeking in order to change the new drafted legislation. We are not aware of any submissions made by the Council to this consultation but would not see any major resource implications from this part of the motion.

SECTION 151 OFFICER'S COMMENTS

Adoption of this motion in its original form without amendment, or revision may expose the Council to legal and financial risk, as well as requiring additional resources and expertise to meet its requirements. Councillors may wish to propose alternative wording or refer the matter to one of the Council's Scrutiny Committees for consideration.

The recommendations of the Committee could be considered at a future Council meeting.

MONITORING OFFICER'S COMMENTS

The legal and financial risks are identified in the officer commentary and, in particular, those in relation to the Public Contracts Regulations 2015. Should members wish to refer the matter for further, more detailed, consideration the advice would be for a scrutiny committee to carry out this work.

The Overview & Scrutiny Committee's terms of reference include making suggestions on the review and development of policy. Any report would be fed back into Cabinet for consideration.

Budget & Performance Panel can also scrutinise policies & procedures and other supporting arrangements for securing value for money e.g. procurement practices.

In addition to this Audit Committee can consider and endorse amendments to the Council's Financial Regulations and Contract Procedure Rules.

Council 27th September

Minute 58

Councillor Ainscough proposed the following motion having given the required notice to the Chief Executive in accordance with Council Procedure Rule 15:-

"This Council notes that:

7. The pressure on organisations to pay their fair share of tax has never been stronger.
8. Polling from the Institute for Business Ethics finds that "corporate tax avoidance" has, since 2013, been the clear number one concern of the British public when it comes to business conduct.
9. Two thirds of people (66%) believe the Government and local councils should at least consider a company's ethics and how they pay their tax, as well as value for money and quality of service provided, when awarding contracts to companies.
10. Around 17.5% of public contracts in the UK have been won by companies with links to tax havens.
11. It has been conservatively estimated that losses from multinational profit-shifting (just one form of tax avoidance) could be costing the UK some £17bn per annum in lost corporation tax revenues.
12. The Fair Tax Mark offers a means for business to demonstrate good tax conduct and has been secured by a wide range of businesses across the UK, including FTSE-listed PLCs, co-operatives, social enterprises and large private businesses.

This Council believes that:

7. Paying tax is often presented as a burden, but it shouldn't be.
8. Tax enables us to provide services from education, health and social care, to flood defence, roads, policing and defence. It also helps to counter financial inequalities and rebalance distorted economies.
9. As recipients of significant public funding, local authorities should take the lead in the promotion of exemplary tax conduct; be that by ensuring contractors are paying their proper share of tax, or by refusing to go along with offshore tax dodging when buying land and property.
10. Where councils hold substantive stakes in private enterprises, influence should be wielded to ensure that such businesses are exemplars of tax transparency and tax avoidance is shunned.
11. More action is needed, however, as current and proposed new UK procurement law significantly restricts councils' ability to either penalise poor tax conduct (as exclusion grounds are rarely triggered) or reward good tax conduct, when buying goods or services.
12. UK cities, counties and towns can and should stand up for responsible tax conduct - doing what they can within existing frameworks and pledging to do more given the opportunity, as active supporters of international tax justice.

This Council resolves to:

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2. Lead by example and demonstrate good practice in our tax conduct, right across our activities.
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4. Not use offshore vehicles for the purchase of land and property, especially where this leads to reduced payments of stamp duty.
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6. Demand clarity on the ultimate beneficial ownership of suppliers UK and overseas and their consolidated profit & loss position, given lack of clarity could be strong indicators of poor financial probity and weak financial standing.
7. Promote Fair Tax Mark certification especially for any business in which we have a significant stake and where corporation tax is due.
8. Support Fair Tax Week events in the area and celebrate the tax contribution made by responsible businesses are proud to promote responsible tax conduct and pay their fair share of corporation tax.
9. Support calls for urgent reform of UK procurement law to enable local authorities to better penalise poor tax conduct and reward good tax conduct through their procurement policies.”

Councillor Parr seconded the motion.

An officer briefing note accompanied the motion on the agenda.

Councillor Ainscough responded to questions from Councillors prior to the debate.

An amendment to the motion was moved by Councillor Hamilton-Cox:

“Given the legal and financial risks identified in the officer briefing note and, in particular, those in relation to the Public Contracts Regulations 2015, Council is asked to refer the matter for further, more detailed, consideration by the Overview and Scrutiny Committee.

Council notes that Overview & Scrutiny Committee’s terms of reference include making suggestions on the review and development of policy and requests that any report arising is fed back into Cabinet for its consideration ahead of any final decision by full council; aiming for Cabinet's meeting in January 2024.”

With the agreement of her seconder, Councillor Ainscough accepted this as a friendly amendment.

There was a discussion about resourcing the Overview and Scrutiny inquiry work for this matter, resulting in Councillor Cooper proposing a further amendment:

“That the words “aiming for Cabinet’s meeting in January 2024” be replaced with “as soon as reasonably possible.”

Councillor Ainscough and her seconder accepted this as a friendly amendment.

At the conclusion of a lengthy debate a vote was taken and the motion was clearly carried.

Resolved:

- (1) Given the legal and financial risks identified in the officer briefing note and, in particular, those in relation to the Public Contracts Regulations 2015, Council is asked to refer the matter for further, more detailed, consideration by the Overview and Scrutiny Committee.

- (2) Council notes that Overview & Scrutiny Committee's terms of reference include making suggestions on the review and development of policy and requests that any report arising is fed back into Cabinet for its consideration ahead of any final decision by full council as soon as reasonably possible.