

Capital Projects – Report of the Overview and Scrutiny Board

Report to Cabinet on 21 March 2023

Background

1. The Overview and Scrutiny Board met on ?? to consider the delivery of capital projects. The Senior Lawyer, Cathy Fleming, outlined the submitted exempt paper on the appropriateness of the inclusion of termination provisions in leases. The Board noted that the delivery of capital projects by local authority was subject to a multitude of factors and risks. The ability to de-risk such projects was subject always to market conditions and the bargaining strength of the local authority. It was not possible to remove risk entirely and the transfer of risk away from the local authority was likely to increase the cost of the project.
2. The Board then scrutinised and received detailed updates in respect of the following Capital Projects.
 - Edginswell Station;
 - Paignton Coastal Defence Scheme;
 - Edginswell Business Park Site 3;
 - Torbay Road;
 - Victoria Centre;
 - Lymington Road Business Centre; and
 - St Kildas.

Members challenged if some of the information contained within this item could have been made public and requested future reports to include public and private information separately to allow for open discussions where appropriate on some of the Council's Capital Projects to help keep the public informed. They would then be able to exclude the press and public if they wanted to discuss the updates on the commercial or contractor elements of the schemes.

3. The Board reflected and debated the information provided to them, both in writing and orally and formed the following recommendation to the Cabinet.

4. That the Cabinet be recommended:
 1. the current economic situation is one where almost all project costs are increasing, especially in terms of materials and labour. Every project budget should have a contingency percentage built-in. The contingency percentage should be project specific and calculated by reference to a number of factors including the cost of the project and the risk profile of the project. It may be that a more robust contingency percentage needs to be applied in the current economic circumstances;
 2. it may be appropriate to review the level of financial due diligence undertaken in respect of a project, particularly in respect of prospective contractors. Thorough financial due diligence should inform the level of security that the Council should be seeking in respect of a contractor. Financial due diligence is also something that should be monitored throughout the life of the project, not simply at the outset; and
 3. a capital project will be made up of several elements and potentially multiple contracts. There needs to be a joined-up approach to reviewing and negotiating the legal documentation – as indicated in the submitted report in regard to agreements for lease and building contracts, the terms of the documents need to dovetail.