Appendix 1

Summary report

Introduction

1. On 1st September 2012 KPMG was appointed auditor to Corby Borough Council by the Audit Commission under Part II of the Audit Commission Act 1998 (the 1998 Act) to audit the accounts of Corby Borough Council (the Council). Section 8 of the 1998 Act requires the auditor to consider whether, in the public interest, to report on any matter coming to their notice in the course of the audit in order for it to be considered by the body concerned or brought to the attention of the public.

2. KPMG's appointment followed the Audit Commission's decision to outsource the work of its Audit Practice. Under the terms of this appointment KPMG is responsible for completing any work outstanding at 1st November 2012 relating to the 2011/12 audit or earlier. KPMG is issuing this report but it is based, in part, on work carried out prior to November 2012 by the Audit Practice of the Audit Commission. The appointed auditor in the Audit Practice also transferred to KPMG in November 2012 and has continued to lead this work.

3. We are issuing this report in the Public Interest under section 8 of the 1998 Act due to the scale of the cost involved, the significance of the findings and the high level of interest shown by the public in the subject matter.

4. As the report is issued under section 8 it will be required to be dealt with in accordance with section 10 of the 1998 Act which requires our report to be considered by the Council at a public meeting.

Our responsibilities

5. External audit is an essential part of the process of accountability for public money. Appointed external auditors operate within the duties and powers given under the Audit Commission Act 1998 and the Code of Audit Practice (the Code) approved by Parliament. The Code determines the nature, level and scope of external audit work. Under the Code, the external auditor provides:

- an independent opinion on a public body's accounts; and
- an independent value for money conclusion as to whether a public body has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources

6. The Code of Audit Practice identifies that proper arrangements for securing economy efficiency and effectiveness include the following:

- planning finances effectively to deliver strategic priorities and secure sound financial health;
- reliable and timely financial reporting that meets the needs of internal users, stakeholders and local people;
- commissioning and procuring quality services and supplies that are tailored to local needs and deliver sustainable outcomes and value for money;
- promoting and demonstrating the principles and values of good governance; and
- managing risks and maintaining a sound system of internal control;

Background

7. For a number of years one of the Council's main priorities has been regeneration and growth, with one of its current objectives being to double the Borough's population by 2030, with a complementary increase in jobs, prosperity and quality of local public services.

8. In order to achieve this, the Council has undertaken, or been involved in promoting, a number of large capital projects aimed at regenerating the local area. Some of these such as the swimming pool and Enterprise Centre are regarded as having been successfully delivered, and indeed based on a 2009 assessment the Audit Commission recognised the regeneration outcomes achieved at that stage by awarding the North Northamptonshire area a "Green Flag" as part of its Comprehensive Area Assessment. The range of capital schemes also includes the following construction and refurbishment schemes which have all either more recently been completed or are reaching completion:

Scheme	Timescale	Gross Cost (£m)	Net Cost (Income) (£m)
Kingswood Housing Development	March 2010 – August 2011	16.4-17.2[a]	(2.6)-(1.3)[a]
CUBE (Civic Offices)	June 2007 – current date	47.6[b]	24.6[c]
Rockingham Triangle (Phase 1)	August 2009 – current date	3.3[d]	2.0[d]
Total		**67.3 – 68.1**	**24.0 – 25.3**

Note: (a) Excludes the cost to the Council of donating land. Source CBC figures to support OCPC Report 17/7/12
(b) Source OCPC report 17/7/12
(c) Source CBC CUBE Scrutiny Review report para 4.10.1
(d) Source 17/7/12 OCPC Report

9. Other organisations have played a part in each of the construction and refurbishment schemes above and each scheme has attracted funding from sources outside the Council, but in each case the Council has played the major role in managing the projects and bearing related risks. The actual gross cost of each scheme exceeded the initial budget in all cases, but was particularly marked in the case of the CUBE, where the Council's initial budget of £32.6 million compares with its latest estimate of £47.6 million.

The Kingswood Housing Development

10. The Kingswood Housing Development delivered 116 newly built houses for sale and 30 social housing units. Grant was provided by the Homes and Communities Agency (HCA) and the project managed by a developer. The Council's involvement in the scheme was considered and approved by the One Corby Policy Committee (OCPC) in June and December 2009. The Council's role, as agreed by OCPC, included establishing a £10 million "clearing fund", whose initial purpose was to buy any unsold houses at the end of the development at 70% of estimated market value. This was later extended to financially guarantee the development should the developer default. The development was on Council owned land.

11. The Council entered into two agreements to deliver the project:

- A tri-partite agreement with the developer and the HCA, which dealt with the grant funding from the HCA and the clawback of a portion of any "surplus" made and included conditions relating to the development.
- A separate project management agreement with the developer under which the Council provided a "work in progress" facility of up to £10 million for the developer "throughout the development" to "facilitate the development".

12. The appointed auditor raised concerns about the financial management of the scheme in September 2010 in his Annual Governance Report (AGR) and again in January 2012 in his 2010/11 AGR. The latter followed whistle-blowing concerns by the Head of CB Property relating to the project received in October 2011 and the lack of action taken by the Council in response to the September 2010 AGR.

13. In responding to the auditor's January 2012 report the Council acknowledged that the Kingswood scheme had not been well managed. It agreed to undertake a review to ensure adequate controls and governance arrangements are established for all future major projects.

The Cube Development

14. The construction of the Cube as a new civic hub was part of the redevelopment of the Southern Gateway to the town centre. The Council had set up the Parklands Gateway Committee (PGC) in 2004 to oversee its involvement in the redevelopment.

15. In 2005 following a design competition Catalyst Corby, the Local Urban Regeneration Company, appointed architects to provide design services for the Cube, but to avoid incurring VAT, the contract was transferred to the Council, which then took a lead role in progressing the design and contracting with and managing the construction phase. The architects led the "Design Team" which worked on the development. The Council remained responsible for contract administration.

16. In 2005 the PGC agreed to set up a Project Board (the Board) to manage the Cube development. As well as the then Council leader, Chief Executive and Head of Special Projects the Board had representatives from other partners such as end users of the building and other organisations providing funding for the project. The PGC approved the initial budget of £32.6 million in August 2006. In 2007 the Council disbanded the PGC, subsuming its role into that of the Lead Member for Regeneration, with key decisions to be made by OCPC.

17. The Board met regularly and considered a wide range of issues connected with the development of the Cube from November 2005 to December 2011. These included the performance of the design team and contractors and related claims for additional fees, the nature of the contracts the Council agreed with them and the overall cost of the development. Requests for additional budget were made by the Board to OCPC during its construction.

18. The Council had secured £9 million of funding from the Department for Communities and Local Government (DCLG), which was dependent on the Council incurring expenditure of a similar amount by March 2008. In 2007 the Council signed a contract for early enabling works in that year, in order to help secure the grant. In January 2008 the Council signed a contract for the construction of the building.

19. The Council's latest estimated cost is £47.6 million. In June 2011, in view of the overspend against original budget, the Council commissioned its own cross party scrutiny review of the project. This was completed in February 2012 and the related report, published on the Council's website (http://www.corby.gov.uk/document/corby-cube-public-report), includes more detail relating to the project.

Rockingham Triangle

20. Corby Town Football Club (CTFC) and Corby Athletics Club benefit from the use of the sports facilities at Rockingham Triangle. Under an agreement signed in 2007 management and maintenance of the facilities has been carried out by CTFC in return for an annual grant of £90,000. The Council retained responsibility for major repairs and capital developments. Over the period leading up to 2008 OCPC had received reports on proposals for upgrade to the stadium including a new stand.

21. In July 2008 OCPC agreed to a more ambitious upgrade scheme costing £5.3 million, with a potential contribution of £2.75 million from grant income. In July 2009 OCPC agreed to a scheme costing £6.5 million, to be completed over phases, including a new stadium following CTFC's promotion. Phase 1 involved four elements and work started soon afterwards. Of the four elements the gross cost of the stadium upgrade was capped at £1.06 million (gross) with any excess to be paid by CTFC. The budget for each element is shown in the table below.

Element	Gross Budgeted cost (£)	Budgeted income (£)	Budgeted Net
Land purchase	250,000		250,000
Tennis courts	276,500	(350,000)	(73,500)
Stadium & infrastructure	1,060,000	(210,000)	850,000
Pavilion	1,000,000	(500,000)	500,000
Total	**2,586,500**	**(1,060,000)**	**1,526,500**

22. Finance staff reviewed the project in the second half of 2011, when work on the tennis courts and stadium was complete, but the pavilion had not been started. The subsequent report in July 2012 showed an overspend, at that stage, on the net budgeted cost to the Council of £756,000, with most of that stemming from an overspend on the "capped" stadium budget. It also explained that CTFC could not fund any of the excess cost. The report presented options for the Council which agreed to increase its capital funding to cover the stadium overspend and pursue the pavilion upgrade on the basis of additional grant funding from new sources. If the additional grant funding was not confirmed, the upgrade to the pavilion would be reduced.

23. In 2009, whilst the scheme was being developed the former Chief Executive and the then leader signed an agreement to guarantee a £60,000 loan taken out by CTFC to repair a fire damaged bar area.

Sales of land at St James

24. The Council's priority of regenerating the area also included the sale of the following areas of development land owned by the Council.

Area of land sold	Date sold	Sale Proceeds (£m)
Land at St James (known as "Yellow Land") – approx 15 acres – comprising "Yellow Area" & "Blue 2" on the map at Appendix 1	March 2010	0.082
Land at St James (known as "Blue Land") – approx 5 acres shown as "Blue 1" on the map at appendix	October 2010	3.700
Total		**3.782**

25. In 2001 the Council agreed option agreements for each plot of land with a property developer. The option agreements ran until 2008 and allowed the developer to buy land under a price formula. The developer had secured planning permission on the sites for office and industrial/distribution uses.

26. In 2006 the Council paid the developer £721,300 to release itself from the Blue Land option agreement, and agreed a revised option agreement with the developer on the Yellow Land. The new agreement ran until February 2015 and allowed the developer to buy the Yellow Land for office and industrial/distribution use based on a price formula. It also required the developer to sign an overage deed after each purchase (with some limited exceptions) entitling the Council to share any increase in land value if a new planning permission was obtained before 2015. The developer assigned the Yellow Land option agreement to Greatline, a separate development company, in June 2008.

27. In August 2008 the Overview and Scrutiny Panel (OSP) received a report concerning the potential sale of the Blue Land to Greatline. The Panel recommended to OCPC approval for the sale of the land treating Greatline as a "special purchaser" (meaning the proposed purchaser had an interest in the land which may be beneficial to both seller and buyer and the land therefore did not have to be marketed), and the inclusion of an uplift agreement to capture a share of any future increase in value.

28. During 2008 and the first half of 2009 sporadic discussions were held with Greatline about the possibility of putting the option agreement to one side and purchasing the freehold of the Yellow Land outside of the agreement. The Yellow Land was eventually sold to Greatline in March 2010 for £82,031, outside of the option agreement and with no restriction on its future use or any uplift or overage agreement to allow the Council to benefit from future increases in land value.

29. In September 2010, OCPC agreed to a proposed sale of the Blue Land to Greatline, following OSP's agreement in principle to do so (see paragraph 27 above). The report considered by OCPC explained that Greatline had been accumulating land at St James for a possible Tesco superstore, the Yellow Land recently sold to them would form part of the superstore development, and agreed a price of £3.5 million with potential for further uplift following independent valuation of the Blue Land site. The above was subject to the Council obtaining legal advice on the sale and Greatline obtaining the necessary planning consent for the development.

30. In October 2010 the Council jointly sought Counsel's advice with Greatline on the proposed sale of the Blue Land, and also, retrospectively, on the Yellow Land sale which by that time had already been finalised. It is not clear why this was not done before the sale. The Council's Head of Legal and Democratic Services drafted the instructions for Counsel, but these were edited and amended by solicitors acting for Greatline before they were finalised.

31. The Council sold the Blue Land to Greatline on 15th October 2010. Planning permission for the superstore development was obtained in June 2011. In September 2011 the Head of CB Property commissioned a "desktop appraisal" of the Yellow Land sale from an external valuer. This concluded that, with the benefit of the retail planning permission obtained, the indicative value of the Yellow Land was between £6.9 and £9.7 million.

Severance Agreement with the Chief Executive

32. During August and September 2011 the Council's Monitoring Officer received written whistle-blowing allegations from the Head of CB Property about the conduct of the then Chief Executive in relation to the sale of the Yellow Land. The Investigation and Disciplinary Committee met on 12 October, 7 November 2011 and 31 January 2011 to consider the allegations and consider options. The Council, responding to a proposal by the then Chief Executive and having sought external professional advice, agreed on 23 February 2012 to a managed departure for the Chief Executive.

33. In March 2012 the Council signed a severance agreement with the former Chief Executive. This provided for his secondment to another organisation at the Council's expense until January 2013, after which his employment with the Council would be terminated allowing him access to unreduced pension benefits. This was estimated to cost the Council £217,000, but was adjudged by the Council to be less costly and time consuming once ongoing salary commitments were considered and give more certainty at an earlier date about the Chief Executive's position.

Audit approach

34. Each of the above regeneration projects involved significant amounts of Council finance and included major capital transactions as part of the Council's aim of regenerating Corby. Allegations relating to the land sales at St James have also resulted in severance agreement with the former Chief Executive. We have therefore reviewed the Council's arrangements for managing the above developments in the context of our responsibilities outlined in paragraph 5 above.

35. In doing so we have identified significant weaknesses in the arrangements and the way the arrangements were applied. We have also considered the findings from the previous auditor's earlier review of the Kingswood scheme which had already reported to the Council in January 2012, and the Council's own review of the Corby Cube overspend. We agreed with the Council's suggestion that our review also cover the Rockingham Triangle Development for in the interests of transparency.

36. As part of the review relevant members and officers, both current and past, have been interviewed and relevant documentation reviewed. The previous appointed auditor has also taken independent specialist valuation advice in respect of the sale of land at St James. The former Head of Legal and Democratic Services (who held the role of Monitoring Officer at the time) and who left the Council in April 2011 was involved to varying degrees in all four regeneration projects reviewed. He declined to be interviewed or answer questions in writing as part of this review, but did offer some comments on the draft report. We have therefore only been able to take into account his comments to that extent. The ex Leader of the Council has also not been interviewed as she died in April 2012.

37. Where we have referred to whistleblowing allegations in paragraphs 12 and 32 we would not normally identify the whistleblower, but in this case the individual has requested that he be identified.

38. Where it is necessary to give sufficient context to the findings we have commented on actions taken by other organisations which were involved in the capital projects reviewed. Our focus is though on the arrangements of the Council. It is not the purpose of this report to investigate or comment on the appropriateness of the actions of other organisations.

Structure of Report

39. We have identified a number of weaknesses and areas for improvement which have recurred in more than one of the capital developments reviewed, indicating that they may be more systematic than one off failings. The report is structured so these are drawn out in the main body of the report under themed headings.

Main conclusions

40. We have identified a significant number of failings in the Council's arrangements for managing four major and important regeneration capital projects. The governance arrangements the Council put in place to manage the projects were ambiguous. Where established governance arrangements and internal controls did exist they often did not operate as they should have done, and in some cases were overridden by senior management. Financial and project management of the projects was poor. This was all compounded because the checks and balances which would have alerted the Council to these failings, including the statutory responsibilities of key officers, did not operate as they should.

41. This has meant that, in our view, the Council may have made decisions contrary to law and against its internal policies and procedures. It has exposed itself to risks it need not have done had its management arrangements been fit for purpose and operated as they should have done. In our view this has resulted in it spending considerably more than it needed to on the construction projects and receiving significantly less than it could have done in respect of the sale of the land at St James.

42. The previous appointed auditor reported to the Council in May 2012, highlighting the financial challenges and risks faced by Council. Over the last few years external borrowing increased from nil to £47 million in 2011/12 and the Council had limited usable revenue reserves over its minimum designated general fund balance of £0.8 million at that time. The Council has a Medium Term Financial Strategy aimed at managing the risks and it has since decreased its external loan debt to £36 million, but there is little doubt that it would have been in a better position to address these had the failings not occurred.

43. The Council needs to take immediate action to improve its governance arrangements. This includes how members fulfil their role, compliance with legal requirements and its own policies and procedures, and arrangements for ensuring this happens. Financial and project management arrangements need strengthening, as does the way the responsibilities of chief officers are fulfilled.

44. We are also aware that during 2012 the Council has taken action to improve arrangements in some areas covered by this review rather than awaiting the final audit report. In particular it has begun to respond to the recommendations in the Cube Scrutiny review. It also commissioned an external review of the Council's overall financial health by the LGA and a separate external review of the auditor's findings on the Kingswood development reported in the last Annual Governance Report. It has also overlaid this with a voluntary Improvement Board in liaison with the Local Government Association. The Board includes external members with local government expertise and experience and is aimed at helping the Council improve its governance, resilience and culture. The views of the Improvement Board are reported on the Council's website. Where action has been taken this has been noted in the report where relevant.

45. The purpose of this report is not to detract from the real benefits to Corby residents from the regeneration projects considered in this report. However, these should not, and did not need to be, at the expense of good corporate and financial governance.

Next Steps

46. As a report in the public interest issued under section 8 of the Audit Commission Act,, there are formal legal requirements with which the Council must comply:

- It must consider the report at a Council meeting, within one month of its receipt;
- It should publicise, in advance, the Council meeting and the reason for it;
- It should publicise after the meeting the decisions taken.

Neil Bellamy
Director
For and on behalf of KPMG.LLP, Appointed Auditors
18 June 2013