

MINUTES
OF A MEETING OF THE
OVERVIEW AND SCRUTINY COMMITTEE

held on 10 July 2023

Present:

Cllr J Brown (Chair)
Cllr A Kirby (Vice-Chair)

Cllr H Akberali Cllr R Leach
Cllr A Caulfield Cllr J Morley
Cllr K Davis Cllr M Sullivan
Cllr A Javaid
Cllr A Javaid

Also Present: Councillors AM Barker, D Roberts

Absent: Councillors L Rice

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Rice.

2. MINUTES

The Committee agreed to note the following that was raised by Councillor Morley at Item 7, Work Programme Setting: add to the Work Programme inviting Royal Mail to attend a future meeting of the Committee. The Councillor additionally restated an interest in Thames Water being reinvited, which was captured on the Work Programme. The Minutes were otherwise received as a true and accurate record.

RESOLVED

That the minutes of the meeting of the Committee held on Monday, 5 June 2023 be approved and signed as a true and correct record.

3. MATTERS ARISING FROM THE PREVIOUS MINUTES OSC23-030

The Chair referred the Committee to the Matter inviting both South East Coast Ambulance and Surrey Fire and Rescue to a future meeting. No party had been able to define a topic that the Committee could have overview of. The Committee agreed to close the Matter, particularly given expectation that the Work Programme for the Year would be dominated by financial and recovery Matters.

RESOLVED

That the report be noted.

4. URGENT BUSINESS

There was no urgent business to discuss.

5. DECLARATIONS OF INTEREST

No declarations of interest were received.

6. PERFORMANCE AND FINANCIAL MONITORING INFORMATION

The Committee requested that statistics on number of fulltime staff from previous months be included going forward.

Members raised disappointment at the continued absence of financial information and reiterated the need for it to return. The Section 151 Officer confirmed that financial reporting was being reviewed and would return.

Both the benefit overpayments collection figure and inspection of food premises figures were noted but their context not fully understood. Officers agreed to investigate the figures.

It was noted that the percentage of planning appeals overturned by the Planning Inspectorate was significantly higher in May, 56%, against a target of 35%.

The percentage of rising 18-year-olds on the register stood at 11.1% of total rising 18 years olds in the Borough. Members were concerned at such a low figure and requested if Officers could provide an explanation.

The Committee drew attention to the target for delivery of affordable homes and was concerned as to the impact of the Council's financial position on meeting the target.

Officers agreed that the presentation of ThamesWey Group information was not clear and requested that a more up to date format be used going forward, in line with information provided at Member briefings. Although reported, the number of apprentices in the ThamesWey Group was zero and Members enquired whether there was an apprenticeship scheme.

The Committee enquired as to the collection of council tax and whether the 99% target was realistic. Officers considered benchmarking would be beneficial.

Members enquired whether there was scope for more staff to be funded externally, beyond the 34 reported, and how those were funded. Officers undertook to provide a breakdown to Members and that any opportunities would be built into the organisation redesign.

Members remarked on the increased percentage of the council's housing stock that did not meet the government's decent home standard and requested that this be included in the proposed housing revenue account item included in the work programme.

RESOLVED

That the Performance and Financial Monitoring Information (April & May 2023) be noted.

7. SECTION 114 NOTICE

Brendan Arnold, Interim Director of Finance and Section 151 Officer summarised the Section 114 Notice and activity since it had been issued to the Council.

The Committee discussed with the Section 151 Officer the steps that led to the issuing of the Section 114 Notice. Advice from several specialists, including the Chartered Institute of Public Finance and Accountancy (CIPFA) and Peter Worth, had informed the work undertaken to understand the Council's financial position.

Action was still being taken to complete the final audit opinions for all accounts from 2018/19 onwards with BDO, the external auditor up to the 2022/23 accounts. BDO had requested the Council review its Minimum Revenue Position (MRP) to provide the final opinions. Officers could not foresee anything that would prevent BDO from then being able to provide final opinions. The Council was engaged with the public sector audit regulator to help move the position forward and with the Department for Levelling Up, Housing and Communities (DLUHC) to consider if another auditor would be required. It was considered that the delay to finalising the 2018/19 accounts onwards would have had no impact on the amount of debt accrued by the Council.

Brendan Arnold considered it not appropriate to predetermine the position of Government, in terms of the ability to provide sufficient funding, but officials at DLUHC had shown understanding towards the position of the Council. It was not known what would happen to the loans provided by the Public Works Loans Board if the Government did not intervene with financial support.

Restatements for previous years' accounts had been made over the past several months. The Section 151 Officer considered that understatement of the MRP had started in a small way in 2007/8 but accelerated rapidly from 2016/17 onwards. The Officer noted that loans had been used for revenue purposes at Council companies throughout the history of the investment model. It was not known to what extent due to sub-optimal record keeping and as such was only stated from 2022/23 onwards. This contributed to the £1.2 billion deficit and its being estimated. The larger share of the deficit was borne of the impairment of assets to which loans had been used to fund, valuations of which had only recently become available, thus necessitating accounting as a revenue charge immediately.

A discussion was held on the Council's previous approach to the MRP and the view of the Interim Director of Finance was that the approach had not been prudent. Brendan Arnold shared that common return on investment for such assets had been funded by the Council would not yield the necessary return to recover the impairment.

Brendan Arnold noted that Woking Borough Council had historically set aside 0.2% of its funding for the MRP. Contemporaneously, neighbouring Districts and Boroughs had set aside 2% for MRP.

A Value-for-Money (VfM) review had been started that would include consideration of whether the investments, had been worthwhile. Grant Thornton had been engaged to conduct the VfM review and it had been discussed at the recent Standards and Audit Committee held on 6 July 2023. A Terms of Reference for the review had been written and, it was anticipated, would be shared with Members.

It was anticipated that the VfM review would provide clarity on the extent to which the costs accrued for, among other investments, Victoria Place and ThamesWey were commensurate with their ultimate values.

The Section 151 Officer confirmed that there was no further ongoing funding to Council companies as these had been suspended since April.

It was confirmed that there would be a reduction in resources at the Council.

8. EXTERNAL ASSURANCE REVIEW AND RECOVERY FIRST STEPS

Julie Fisher, Chief Executive, provided a summary of the Chief Executive's Response to the Section 114 Notice that had been presented to, and agreed unanimously at, full Council on 20 June 2023. The response included actions that needed to be taken to commence recovery. Many of the actions had already begun.

An Improvement and Recovery Plan had been established as part of the actions identified. Additional resources had been acquired, particularly in Finance, to undertake the improvements.

The Chair enquired as to why the Council was refused extraordinary support by the Government in 2021 and the Chief Executive undertook to review the bid that was submitted.

A public consultation on the future provision of services had opened, seeking the views of residents on how services should be cut. The Chief Executive recognised the need to engage with those that did not have ready access, or could not easily use, digital communications. Julie Fisher confirmed that in addition to the public consultation on services, there would be separate consultations held for the provision of specific services. Face to face engagement on service provision would take place where it would be beneficial, particularly with those that would be directly affected.

The working relationship between the DLUHC-appointed Commissioners and Corporate Leadership Team was remarked on as being very constructive, open and communicative.

The Commissioners had met with the Chair of the Overview and Scrutiny Committee and were interested in engaging with the Committee publicly.

9. PRE-DECISION SCRUTINY: MEDIUM TERM FINANCIAL STRATEGY UPDATE OSC23-034

Brendan Arnold introduced the Medium-Term Financial Strategy (MTFS).

The MTFS had been produced reflective of the Council's financial position. The strategy followed two strands; the £11 million budget shortfall for 2024/25 and how resolution on that would be sought, and the £1.2 billion deficit, which would be considered in consultation with DLUHC.

There were two budget steps remaining for the Municipal Year; September 2023 Council, where some budget decisions could be taken early for full next financial year impact, and February 2024 Council, where the full budget would be presented. The Section 151 Officer added that it was a legal requirement for the Council to have a balanced budget, but that could only be considered achievable by working with DLUHC.

Officers requested the Committee agree to a proposed workshop on the budget before it was presented to Council on 28 September. The intention was for Members to perform scrutiny of the proposals over a dedicated, and extended, period, which would be presented along with the MTFS to the Executive. The Chair and Committee agreed to the

proposal and discussed the most appropriate time to hold the workshop, recognising that daytime was not practical for most Members due to work commitments.

A second workshop, ahead of the February full Budget, was mooted by Officers.

The Committee discussed the now-suspended Investment Programme that the Chair noted had been included in the February 2023 budget. Councillor Roberts, Portfolio Holder for Finance, noted that the February 2023 budget was presented with two caveats; the budget could be balanced with use of reserves, and that it was only possible if there was no change to the MRP.

The potential for asset disposals was raised and Brendan Arnold confirmed that there was a statutory duty to seek best value for their disposal.

The Council intended to re-establish a reserve of £35,000 in the next year which would be taken from the various funding streams available to the Council and made separate.

Community Infrastructure Levy funding was discussed and how the money was ring-fenced from other funding. Councillor Davis raised particular concern over the subject, especially regarding CIL funding being fully ring-fenced in a separate account from other budgets. The sentiment was agreed by Councillor Roberts and the Chair. Brendan Arnold agreed to discuss the Councillor Davis' concerns after the meeting and was producing a briefing note on the subject for all Members.

Consideration in the MTFs had been given to Council Tax and fees and charges. The Interim Director of Finance clarified that future prices, particularly around parking charges, were as example for modelling only and in no way meant as indicative of what Officers were considering seeking approval for.

Councillor Davis emphasised the need for Council Tax increases to be kept low. The Councillor also considered that it would be beneficial for residents if indicative costs of providing a service were included to aid in deciding which should be kept, reduced, or removed.

Officers recognised that the high rate of inflation would cause the spending power of Councils to fall until brought lower. The Government's 3% limit on increasing Council Tax would lead to a real terms reduction in cost to residents while inflation remained above 3%.

It was noted that the risks listed in the MTFs didn't include contingency for another pandemic. Brendan Arnold assured the Committee that, at a point during the Council's financial recovery, it would be surprising if reserves were not kept for such an eventuality.

10. PRE-DECISION SCRUTINY: TOWN CENTRE MASTERPLAN OSC23-035

The Committee discussed the expenditure on the consultation and what outcomes were drawn from it. It was confirmed that the Council had spent £160,000 on the consultation with £60,000 having been received as a grant. The cost also included expenditure on preparations ahead of the consultation.

The responses to the consultation could be used to inform the Local Plan and its three consultations which were required by law. The Committee indicated that any scrutiny of the money spent on the consultation was born of a concern for the Council's wider finances.

The Leader of the Council, in attendance at the meeting, noted that the Town Centre Masterplan had been designed so that there was greater clarity as to the Planning Authority's considerations for an application which would benefit both developers and the Council. It was anticipated that the Masterplan would help to reduce the number of appeals to the Planning Inspectorate and thus reduce costs.

The Committee agreed that the proposed strategy in the Town Centre Masterplan was the most appropriate given the Council's finances however the Committee expressed its reservation about the impact the Masterplan may have on other parts of the Borough.

Two Members raised concern that there could be unforeseen consequences on the Borough villages derived from the Town Centre Masterplan proposing height limits for buildings and the extant Local Plan limiting green belt construction. The Committee discussed potential impact from the new Town Centre Masterplan and the Local Plan on construction across the Borough. There was particular concern from the two Members that an intensification of construction, particularly multi-storey, would occur in the Borough's villages to offset limits in building high-rise buildings in the Town Centre.

The Committee agreed to provide the minute of the item to the Executive to ensure those concerns were noted in the following terms:

- (i) the Overview and Scrutiny Committee accepted that the Town Centre Masterplan, as part of a new Local Plan, would be the most appropriate only given the financial situation of the Council; and
- (ii) individual Members on the Committee's reservation as to the potential impact on the Borough's villages in the future due to the proposed height limits for buildings in the Town Centre Masterplan.

11. PRE-DECISION SCRUTINY: PUBLIC REALM USAGE POLICY OSC23-036

Members sought confirmation that it was permissible to charge different prices to entities dependent on their size and locality. The legal Officer provided their opinion that a variable charge was at the discretion of the Council.

Officers confirmed that there was no appeal process if an organisation was refused use of the public realm space.

The Committee recommended that individuals' names and contacts be replaced with positions and departments responsible in the event that individuals were to stop working for the Council.

The Committee discussed whether, given the Council's financial position, it could afford to provide the services for free, or if they should be charged at cost. The Committee recognised that the costs could be discretionary, particularly to ensure that charities were not burdened financially. Officers considered that an analysis would need to be performed to determine this. The Committee agreed to adopt a recommendation that could be put to the Executive to consider how the service could be cost neutral but not harm charities.

Recommended to the Executive that

- (i) the Public Realm Usage Policy was welcomed by the Overview and Scrutiny Committee;**
- (ii) every effort be made to ensure that such a policy be delivered on a cost neutral basis; and**

(iii) due consideration be given such that charities not be financially burdened by the policy.

12. BRIEFING NOTE: SCRUTINY TOPIC PROPOSALS OSC23-031

The Scrutiny and Democratic Services Officer presented the item and invited Members to consider the proposed deadline for submission of scrutiny topic proposals. The Committee agreed that the deadline was reasonable.

Resolved That

the proposed deadline for submitting scrutiny topic proposals, 7 days before the Overview and Scrutiny Committee agenda publication, be agreed.

13. WORK PROGRAMME OSC23-029

The Council was due to hold an extraordinary meeting on 22 August to discuss the improvement and recovery programme. Councillor Brown, as Chair of the Committee, had agreed to hold an extraordinary meeting on 14 August as requested by Officers, ahead of Council.

Councillor Javaid considered whether more visual accompaniment to items would benefit residents and Members alike. The Member further considered that a clear description of the practical impact be given to aid comprehension by residents. Other members of the Committee agreed with the sentiments raised by the Councillor.

The Chair agreed to take away the proposal to invite Royal Mail to a future meeting and restated the previously mooted invitation of South Western Railway.

It was requested that benchmarking be performed for the item 'Scrutiny of definitions of statutory and non-statutory services' against other Councils that had been served with S114 Notices.

RESOLVED

That the Work Programme be noted.

13.1 Scrutiny Topic Proposal: HS2 Funding at Brookwood Cemetery: Cllr K Davis OSC23-032

Councillor Davis, who had submitted the proposal, considered in light of the discussions during the evening, that the topic shared similarities with the Community Infrastructure Levy. Nevertheless, the Councillor was keen that the proposal be considered separately for inclusion on the Work Programme to ensure it was still scrutinised.

The Committee discussed whether a task and finish group would be an appropriate means to consider the item further.

The Chair considered it most appropriate to determine the item outside of the meeting.

13.2 Scrutiny Topic Proposal: Review of Constitution Planning Sections: Cllr A Caulfield OSC23-033

Councillor Caulfield, who had submitted the proposal, noted that Officers had been in direct contact and had already provided help on the topic.

Councillor Caulfield was most concerned that the Constitution lacked facility for supporters of a planning application to speak at Committee.

Officers confirmed that work had already commenced on addressing the concern and a benchmarking exercise had revealed that neighbouring Boroughs approached speaking at planning Committee differently. Officers were drafting a proposal on the subject which would be submitted in due course.

The Chair determined that it was most appropriate to receive the finalised report at Committee.

The meeting commenced at 7.00 pm
and ended at 10.19 pm.

Chairman: _____

Date: _____