

MINUTES
OF A MEETING OF THE
OVERVIEW AND SCRUTINY COMMITTEE

held on 15 June 2020

Present:

Cllr D E Hughes (Chair)

Cllr S Hussain	Cllr J E Bond
Cllr R Mohammed	Cllr G G Chrystie
Cllr C Rana	Cllr J R Sanderson
Cllr M I Raja	

Also Present: Ernest Amoako, Gareth John, Jo McIntosh, Ray Morgan, Councillors S Ashall, K Davis, W Forster, L Lyons and L Morales.

1. APOLOGIES FOR ABSENCE

None received.

2. MINUTES

RESOLVED

That the minutes of the meeting of the Committee held on Monday, 24 February 2020 be approved and signed as a true and correct record.

3. MATTERS ARISING FROM THE PREVIOUS MINUTES

The Chairman noted an error on page 8 of the minutes, which should read “guests” not “guest”. The Chairman then highlighted some items that had been scheduled into the 20/21 municipal year’s Work Programme, such as an update on Family Centres and mentioned the outstanding report to detail the empty homes by ward for each member, which was delayed due to COVID-19 and would be distributed when completed.

The Committee also reviewed the letter received from the Chair of the Food Standards Agency, Heather Hancock, that noted introducing the Food Hygiene Rating System as a priority and it was identified that new regulations would be required however the time frame of this was unknown due to the departure of the UK from the EU.

4. URGENT BUSINESS

There was no urgent business to discuss.

5. DECLARATIONS OF INTEREST

None.

6. COMMUNITY INFRASTRUCTURE LEVY UPDATE

Mr Amoako, Planning Policy Manager, provided an overview of the Community Infrastructure Levy Scheme and informed the Committee that CIL was introduced by the Council on 1 April 2015, the Government encouraged Councils to apply CIL to secure developer contributions to towards the delivery of infrastructure to support the development. Prior to the use of CIL, the main means for securing development contributions was by Section 106 agreement. Section 106 Agreement is only used in limited circumstances in accordance with Government legislation. It was noted that the key advantage of CIL was that it allowed local authorities to pull resources together to implement infrastructure priority schemes in order to benefit their communities the most and identified priorities accordingly without being tied to specific schemes under Section 106.

To ensure accountability and transparency, the Government required Charging Authorities to publish Regulation 123 List setting out the infrastructure projects that they would use this CIL to deliver. The requirement to publish the Regulation 123 List had since been abandoned and the Government now requires authorities to publish an "Infrastructure Funding Statement", which would take effect from 31 December 2020.

A Viability Assessment was a key piece of study that was undertaken to inform the rates that were charged. Woking Borough Council charge CIL for the net floor space of residential and retail uses not commercial. The rates have to set to ensure the viability of development across the Borough. The Council charges 75 pounds per sq.m for residential development at the Town Centre and the Priority Places (Sheerwater and Maybury). Everywhere else is 125 pounds per sq.m. For retail development, it is 75 pound per sq.m everywhere.

Mr Amoako went on to explain that to date Woking Borough Council had received £4,543,832 from CIL funding.

The Committee reviewed the borough map, attached to the agenda, which noted how much money had been earmarked for each ward or neighbourhood areas. It was added that the Council had delegated responsibility to the Joint Committee to oversee the administration of the CIL money. At a meeting of the Joint Committee in March 2019, it was agreed that money could be drawn from the Council to deliver local community projects, and Ward Councillors should play the leading role in identifying projects and applying to the Joint Committee for the money to deliver the projects. In doing so, Ward Councillors should work in partnership with key stakeholders such as neighbourhood forums. The Joint Committee had suggested to review the scheme t after monitoring its operation for one year.

If Councillors wanted to apply for funding, there were three main pieces of information to meet the criteria:

- Name of Project
- Brief description of project and the benefit to the community
- Evidence of community support for project

The application would then be put together by Officers, and submitted to the Joint Committee for decision.

Following questions raised by Councillors, Mr Amoako confirmed that CIL money could be used on the new or enhancement of Play Areas. It could also be used to improve areas alongside road networks to enhance traffic flow or if that is an integral part of the road infrastructure. Members praised Mr Amoako's work and assistance with the installation of benches in West Byfleet. Some frustrations were voiced in the procedure of going through the Joint Committee, especially as recent meetings had been cancelled, however a sub-group had been suggested if this became a concern.

The Chairman thanked Mr Amoako for his update and requested a step by step guide to be produced to allow members to fully utilise the process and what was required.

7. WORK PROGRAMME OSC20-012

The Committee reviewed the Work Programme, and noted the changes to the Work Programme for the next committee meeting in July.

Councillor Sanderson requested the Finance Task Group conduct a comprehensive review of Council finances following COVID-19 pandemic. Councillor Bond also requested that the Green Book for February and end of year would be reviewed at the next meeting.

RESOLVED

That the Work Programme be noted.

8. WOKING FOOTBALL CLUB & ASSOCIATED DEVELOPMENTS TASK GROUP REPORT OSC20-011 & ITEM 9 - CHIEF EXECUTIVE COMMENTS ON WOKING FOOTBALL CLUB TASK GROUP REPORT OSC20-011A

[NOTE: Following a reference made during the debate to Harrington Place, a project completed by Thameswey, the Chief Executive, Ray Morgan, declared a disclosable personal interest (non-pecuniary) in any items concerning Thameswey companies of which he was a Council-appointed director. The interest was such that he could advise the Council on those items.]

The Chairman introduced the report of the Woking Football Club & Associated Developments Task Group, and it was agreed that Agenda Item 9 – Chief Executive Comments on the Report – would be taken at the same time.

The background to the Task Group's report was summarised, including the objectives of the Task Group. The Chairman emphasised that the Task Group had not been established to scrutinise the Football Club or the development proposals, nor to criticise Council Officers or to influence the planning application. The objective had been to ensure due processes had been followed during the Council's consideration of the proposed development and to provide assurance to residents.

The Task Group had concluded that there were examples of weakness in due process and had produced 16 recommendations to Council to ensure better practices were adopted for future consideration of major developments. The Officers and Members were thanked for their hard work in supporting the work of the Task Group.

It was noted that recommendation (xv) had been withdrawn in light of the advice received by the Council through leading Counsel's opinion, the details of which had been circulated to all Councillors on 10 March 2020, and was set out in appendix 1 to the report by the

Chief Executive. Leading Counsel had advised that neither deferral on the basis of a further Site Allocations DPD consultation nor refusal on prematurity grounds could be justified.

The Members discussed the recommendations and expressed concern over the conclusions of the Task Group that there had been a lack of due diligence and transparency. Whilst Members acknowledged the complex nature of such commercial transaction, it was felt that some information had been kept out of the public domain. Members emphasised their frustration that some meetings held during the development of proposals had not been minuted or documented.

The Chairman questioned the distribution date of Leading Counsel's opinion, which appeared to have been circulated before the final version of the Task Group's report. The Chief Executive informed the Committee that the advice had been sought for the Members of both the Planning Committee and the Task Group, and had been circulated in the wider context to all Members.

The Chief Executive introduced his report which recommended that the Council's Internal Auditor should be requested to undertake a review of the Governance arrangements for the developments, with the Auditor's report to be considered by the Standards and Audit Committee. The Overview and Scrutiny Committee would then be able to consider the Task Group's report at a future meeting with the benefit of the Audit Report and the views of the Standard and Audit Committee.

The Chief Executive expressed his concern that Members were not content that the correct processes had been carried through, as two of the key officers had been Statutory Officers of the Council and had acted in the Council's best interest. The report requested that the recommendations were not taken to Council and that an independent review should be conducted. The Chief Executive added that resources had been provided to the Task Group and was not aware that the Committee had requested a budget which had been refused.

The Chief Executive acknowledged that the Members of the Task Group had clearly set out their discomfort over the Council's governance measures in the dealings around the Woking Football Club development. His report therefore recommended that the Council should commission an independent audit review.

Some members felt confused by the suggestion that the recommendations of the Task Group should go to the Standards and Audit Committee as opposed to Full Council. Members also felt that Council should have the opportunity to agree which independent body would conduct the review, questioning the independence of the Internal Auditors for the Council.

It was explained that the report had been delayed as a result of the COVID-19 outbreak and the subsequent cancellation of Committee meetings in March, April and May. The Chief Executive explained that the internal audit of the Council was undertaken by an external firm which was accordingly referred to as the Council's Internal Auditor. If the Committee sought as it suggested a law firm, it would similarly be referred to as the Council's law firm. The term should not be used to imply that the Company would not be impartial.

The Chief Executive reminded the Committee that further information would need to be gathered as to how Members envisioned pursuing the recommendations, some of which could affect future opportunities for the Council. It was also explained that his

recommendations were to be read together, starting with the report being noted for now, followed by the independent review, and further consideration of the points raised by the Task Group's report.

The Chairman emphasised that the Task Group's recommendations had been drawn up to help support officers in their roles, and were not aimed at individuals. The Chairman summarised the key points of the proposals and moved to the vote on the recommendations within the report of the Task Group. It was noted that Councillor Raja was no longer present in the meeting.

In accordance with Standing Orders, the names of Members voting for and against were recorded.

In favour: Councillors J Bond, G Chrystie, D Hughes, J Sanderson and M Whitehand.

Total in favour: 5

Against: Councillor R Mohammed.

Total against: 1

Present not voting: S Hussain and C Rana.

Total present not voting: 2

The recommendations were therefore carried by 5 votes in favour to 1 vote against.

The Chairman then moved to the vote on the recommendations within the report of the Chief Executive and in accordance with Standing Orders, the names of Members voting for and against were recorded.

In favour: Councillors S Hussain, R Mohammed and C Rana.

Total in favour: 3

Against: Councillors J Bond, G Chrystie, D Hughes, J Sanderson and M Whitehand.

Total against: 5

Present not voting: None.

Total present not voting: 0

The recommendations were therefore lost by 3 votes in favour to 5 votes against.

RECOMMENDED to Council

That (i) WBC in its future business dealings maintains minutes and notes of all meetings in which development contracts and finance are discussed and decisions made.

(ii) Decisions regarding disclosure of Part II items should be more transparent and under regular review.

- (iii) **Officers not agree confidentiality clauses which prohibit the Council from public disclosure following the signing of contracts.**
- (iv) **Definition of what constitutes 'material' changes to be clarified. This would support Officers when using their delegated authority, and not open the Council to any challenge of changes which may be of a material standing.**

Clarity over some Officer roles

- (v) **That Officers who hold various positions by virtue of their employment in the Council and its companies, are released from some actions in which they act in these multiple roles, especially where there are also personal declarations of interest and associated directorships. It is recommended this be referred to the Standards and Audit committee. Their consideration for a protocol by which Officers, by virtue of their appointment, can be guided on what is appropriate would be helpful. This would ensure that Officers are not put in positions where there can be a challenge of a conflict of interest.**

Business Cases

- (vi) **For all significant and complex developments or investments a business case should be submitted to Council at the out-set, to provide the context, the justification of the case for change and promote discussion on available options.**
- (vii) **Members should be more careful in accepting information without reasonable evidence, and unsubstantiated statements should be more rigorously tested prior to agreement of Council (Officer) recommendations.**
- (viii) **Elements of the future sustainability and self-sufficiency of WFC should be more fully tested for clarity and accuracy. As the prime rational for the development is that of ensuring the on-going sustainability of the club. It would be prudent to ensure that this is achievable in all the various and on-going iterations of the proposals. Any changes of proposals should be brought back to the Council for consideration.**

Due diligence

- (ix) **In all projects the process of due diligence needs to be as full and broad as possible and not limited to the narrow scope of a Special Purpose Vehicle (SPV). WBC must adopt a similar comprehensive due diligence perspective as that of a lending bank.**
- (x) **A rigorous risk assessment is required on the whole scope of this development to protect the Council. The project risks and those associated with the loan facility should be regularly reviewed.**

- (xi) **Risk assessments should be undertaken for all future developments and investments.**

Council as landowner and also Planning Authority

- (xii) **In developments where WBC has dual roles and interests these need to be transparent, and any conflicts clearly identified.**
- (xiii) **Consideration of Core Strategies and the Site Allocations DPD should be clearly distinct from any undue influence by an impending development.**
- (xiv) **Council purchase price of property and land should always be supported by at least one and preferably two valuations and survey reports.**

Further independent scrutiny review

- (xv) **Given the scale and gravity of findings within this report a further independent and fully resourced investigation into the processes behind this development should be commissioned.**

RESOLVED

That the recommendations set out in Agenda Item 9 – Chief Executives Comments on Woking Football Club Task Group Report be not supported.

9. CHIEF EXECUTIVE COMMENTS ON WOKING FOOTBALL CLUB TASK GROUP REPORT OSC20-011A

This item was considered in conjunction with agenda item 8 on the agenda

10. ANNUAL REPORT OSC20-010

The Chairman introduced the Annual Report, which included feedback from the three task groups. Some areas had been scheduled into the 20/21 Work Programme where follow up was required including Freedom Leisure and Family Centres.

The Chairman also thanked the Chairmen of the task Groups for their reports. The Woking Football Club & Associated Developments Task Group would be discussed in further detail under agenda item 8.

RESOLVED

That the Annual Report be noted.

11. EXCLUSION OF THE PRESS AND PUBLIC

12. THE CHAIRMAN WILL MOVE AND THE VICE-CHAIR WILL SECOND:-

13. WOKING FOOTBALL CLUB & ASSOCIATED DEVELOPMENTS TASK GROUP - PART II REPORT OSC20-013

The Chairman decided that as the decision was sought for items 8 and 9 in Part I, there was no requirement for further discussion under Part II.

The meeting commenced at 7.00 pm
and ended at 10.03 pm

Chairman: _____

Date: _____