

# SHOPSHIRE COUNCIL

## PERFORMANCE MANAGEMENT SCRUTINY COMMITTEE

Minutes of the meeting held on 21 September 2017

12.45 - 3.10 pm in the Shrewsbury Room, Shirehall, Abbey Foregate, Shrewsbury,  
Shropshire, SY2 6ND

**Responsible Officer:** Julie Fildes

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### **Present**

Councillor Claire Wild (Chair)

Councillors Gwilym Butler (Vice-Chair), Karen Calder, Roger Evans, Hannah Fraser,  
Cecilia Motley, Peggy Mullock, Dave Tremellen and Leslie Winwood

### **20 Election of Chairman**

**RESOLVED:** That Councillor Claire Wild be elected as Chairman for the ensuing municipal year.

### **21 Apologies for Absence and Substitutions**

Apologies were received from Councillor Alan Mosley.

### **22 Appointment of Vice-Chair**

**RESOLVED:** That Councillor Gwilym Butler be appointed Vice-Chairman for the ensuing municipal year.

### **23 Disclosable Pecuniary Interests**

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

### **24 Minutes of the meeting held on 20 July 2017**

**RESOLVED:**

That the minutes of the Performance Management Scrutiny Committee meeting held on 20 July 2017 be approved as a correct record and signed by the Chairman.

### **25 Public Question Time**

Mr Steven Mulloy submitted the following questions and the written responses were tabled at the meeting.

i) *That the existing Developer Contributions SPD and the Type and Affordability of Housing SPD be reviewed. With regard to the Type and Affordability of Housing*

*SPD this should seek to incentivise individual landowners and parishes to bring forward land for affordable housing use;*

**Question:** *It is my understanding that this was being reviewed last year, but can I ask if any consideration has been given to the Dynamic Viability Index (DVI) which is appended to the SPD, and whether it serves any useful purpose given the issue that was highlighted at a meeting a few years ago with the Head of Planning and portfolio Holder? (See **Appendix 1**).*

**Response:** No further consideration has been given to the use of the DVI at this time, but this will form part of the work needed to review the Type & Affordability of Housing SPD in due course;

*ii) That increased effort be directed into promoting Community-led affordable housing schemes;*

**Question:** *Has any consideration been given to para 4.66 of Policy CS4 (below) and the lack of use of the 'interactive toolkit' which has only been used by less than 10% of parish councils? Unfortunately, some parish councils are little more than private clubs, so if you want community led affordable housing schemes, surely you need to encourage PC's to carry out intelligent analysis of their communities?*

**Response:** This issue was previously addressed in a response which Mr Mulloy received from Eddie West on 4<sup>th</sup> May 2017. Shropshire Council has actively supported a 'bottom-up' approach to capture local information about housing need, including through extensive use of the interactive toolkit (in 43 parishes). As a direct result, there are now a number of successful community led schemes throughout the County which have generated tangible outcomes which make additional local provision for affordable housing. In response to demand Shropshire Council is currently advertising a new post to assist communities in developing and promoting community led schemes which accurately reflect local affordable housing need.

*iii) That the Local Plan Member Group be recommended to consider the need to review existing countryside planning policies (CS5 / CS11 / MD7a & b) in relation to the delivery of affordable housing as part of the current Local Plan Review;*

**Question:** *Is the committee aware that the main evidence base for AHC and CIL is the 'Affordable Housing Viability Study 2010 (AHVS 2010) which was carried out by Fordham Research, and that the company came out of liquidation to conduct the survey (albeit with a slight name change), then returned to liquidation once the study was completed (see **Appendix 2**)? The report has a number of errors which really questions its credibility as an evidence base for developer contributions, but when pointed out to the Council it was dismissed as 'death by a thousand details' (see **Appendix 3**).*

**Response:** Shropshire Council is aware of the potential inadequacies of the Fordham research. However, that research is now dated and development viability is kept under constant review. In this context, we are satisfied that the prevailing target rates reflect development viability in the Shropshire context. Planning appeal decisions reinforce this confidence.

iv) *That arrangements for allocating CIL revenue should be clarified to ensure that available funding is used to support the highest investment priorities. The Portfolio Holder for Planning should be asked to agree any spending decisions made by the officer level Internal Infrastructure Group.*

**Question:** *An objection was raised to the Councils Statement of Accounts 2015/16 about the way the Council dealt with CIL exemptions. The objection focussed on the Exceptional Circumstances Relief from CIL for Brogyntyn Hall of £860k, and a false CIL declaration for Besford House that slipped through the system. The External Auditor reported back in his letter of 19th June 2017 and issued a Statutory Notice with a recommendation under S27(6) of The Local Audit & Accountability Act 2014 as follows:*

***"The Council 'should formally review' its arrangements in respect of CIL and in particular should ensure that when calculating CIL liability in relation to future development schemes, it documents its consideration of the available evidence as to whether or not the premises have been 'in lawful use' and therefore qualify for a 'demolition deduction' from CIL, taking account of the Hourhope case and any other relevant case law and guidance."***

*Can I ask what consideration, if any, was given, or will be given to this by the Task & Finish Group or this committee?*

**Response:** No specific consideration was given to this matter by the Task & Finish Group. However, in response to the external auditors recommendation, Shropshire Council has recently updated its CIL Form 0: Determination of CIL Liability, to require photographs to be provided as evidence to corroborate whether a building has been in lawful use for the specified time period where there are any buildings to be demolished or converted as part of the development.

v) *That a letter be sent to all Shropshire Council Councillors and all Parish and Town Councils clarifying who the responsible authorities are for various parts of the CIL revenue, and Shropshire Council's expectations on how the CIL revenue will be prioritised. This letter will be circulated alongside the annual Place Plan letter.*

**Question:** *Can I ask that this letter also emphasises the importance of intelligent analysis of their communities as described in Core Strategy policy CS4 and that since the Localism Act, we have moved from representative democracy to consultative democracy?*

**Response:** Shropshire Council will consider this request when drafting the letter.

Mr Mulloy responded to each of the answers:

Answer 1: Consideration needs to be given to the timescales for the use of the DVI in the review of the Type and Affordability of Housing SPD.

Answer 2: Mr Mulloy expressed concern that five years after the implementation of the Localism Act, only 43 out of 170 Parish Councils had engaged with the rural

interactive toolkit. He advocated a more proactive approach to encourage Parish Councils to engage in the process.

Answer 3: Mr Mulloy re-iterated his concern that the use of the Affordable Housing Viability Study 2010 had been supported on appeal when the evidence base was poor.

Answer 4: Mr Mulloy asked Members to note that lack of consultation of developer contributions had led to unexpected high fees and that he had requested a variation in S106 fees 7 months previously but had not received a response. He continued that the External Auditor had made a statutory declaration regarding the use of available evidence when determining if premises had been in lawful use and the S106, CIL & NHB Task and Finish Group had failed to appreciate the gravity of this, he continued that more work should be done on this matter.

Question 5: Mr Mulloy said that he was pleased with this response.

Finally Mr Mulloy requested that the 29 responses to the Statement of Community Involvement consultation be viewed as a low turnout and asked that consideration be given to whether this complied with Council policies.

## **26 Report of the S106, CIL and NHB Task and Finish Group**

The Planning Policy and Strategy Manager introduced the report from the S106, CIL and NHB Task and Finish Group. He asked Members to note that this was a short report outlining the work of the group so far and that the Task and Finish Group was ongoing. Members observed that the report concentrated on legal planning agreements rather than the use and distribution of CIL monies.

The Planning Policy and Strategy Manager explained that CIL income was only received once development was in progress and not when Planning Permission was granted. During the previous few years many developers had applied for planning permissions but not commenced building work, this had impacted on the amount of funding received from S106 and CIL agreements. He continued that the group was considering the ways that developer contributions could be used most effectively to deliver necessary infrastructure projects.

Members noted that Supplementary Planning documents required amendment following changes in Government guidelines, which were to the detriment of rural areas. Community led development schemes had been instigated to address this, with planning policies making it easier to obtain exceptions for affordable housing in rural areas. The importance of communities having Place Plans to support their aspirations was discussed. It was observed that the Government view and aspirations for community led housing projects was unclear and further guidance was awaited.

Members discussed where CIL funding should be spent with discussion of the amount being ring fenced to the area where it was generated. The Chief Executive explained that there were strict criteria in the legislation determining what happened to the funding, with communities receiving their statutory portion as the

Neighbourhood Fund, and the Council having discretion on the use of the remaining balance. Only allowing CIL expenditure in areas where it was generated could lead to an unbalanced provision of service and infrastructure. A Member observed that many smaller parishes were agreeing to development in the belief that the CIL revenue would be used for local projects and this was not necessarily the case as the Neighbourhood Funds received were often insufficient or could not be used as the community had thought due to onerous conditions attached.

The Planning Policy and Strategy Manager confirmed that Place Plans were to be reviewed and that Parish Plans fed in the Place Plans. Members questioned the value of Parish Plans and suggested that Neighbourhood Plans suited larger settlements and towns and not smaller parishes.

Members asked if the amount retained by the Council from CIL revenue to cover administration costs could be used to support Neighbourhood Plans and Housing Surveys. The Planning Policy and Strategy Manager responded that the Council retained 5% of the revenue received and the costs of administering the service were far greater than the contribution retained. Despite this, the Council still supported the development of Place Plans, Neighbourhood Plans and Housing Surveys.

In response to a Member's question regarding which developments were subject to CIL agreements, the Planning Policy and Strategy Manager agreed that the system was operated differently in Shropshire to some neighbouring authorities as when the charging structure had been adopted in 2012 it had not been possible to differentiate between large and small scale commercial premises. It was thought at that time that the imposition of the CIL charge would stifle commercial development.

Members observed that the public needed to see the benefits of CIL revenue received as a result of development.

**RESOLVED:** that

- i. the report be received as an interim report and its recommendations be accepted, subject to the rewording of paragraph iv, to read as "The Portfolio Holder for Planning and Regulatory Services be consulted regarding any spending recommendations made by the officer level Internal Infrastructure Group".
- ii. the Task and Finish Group continue its work with particular emphasis on the Community Infrastructure Levy and present its final report to the Committee in due course.

## **27 Member Question Time**

There were no questions from Members.

## **28 Digital Transformation Programme Update**

The Head of Human Resources and Development gave a verbal update on the progress of the Digital Transformation Programme and agreed to distribute a briefing note to Members after the meeting [copy attached to the signed minutes].

In response to a Member's question, the Head of Human Resources and Development anticipated that the delay in the going live date for ERP would not have a significant impact.

A Member asked for further information on the situation regarding staff resources, the Head of Human Resources and Development confirmed that there was adequate budget for the provision of staff resources. She added that in-house training was a good solution as there was not a sufficient supply of people with the requisite skills in the current workforce market.

The Head of Human Resources and Development agreed to provide briefing notes of progress for future meetings of the Committee.

**RESOLVED:**

That the verbal report of the Head of Human Resources and Development be noted.

**29 Quarter 1 Performance Report**

The Performance Manager introduced the Quarter 1 Performance Report which had been considered by Cabinet at its meeting of 6<sup>th</sup> September 2017. Members noted that all areas covered by the report demonstrated a level of stability. He drew Members' attention to the rise in visitor numbers for the tourism sector and theatres, changes in the way that the NHS report delayed transfer of care times and the penalties for not doing so, and the on-going rise in the numbers of people killed or seriously injured in road accidents. He suggested that Members access the new Shropshire Performance Portal, which he described as being in its early stages and anticipated that it would develop and improve with the progression of the Digital Transformation Programme.

In answer to a Member's question regarding road accidents and the decreasing staff levels since 2007/8, the Performance Manager explained that Shropshire was performing well when compared with other local authorities and that the necessary level of service was being maintained despite fewer staff. He continued that the road traffic accident statistics were being more closely examined to ascertain if there were consistent trends which could be targeted. Members noted that further information on this issue would be presented at a future meeting.

Member commented on the Shropshire Performance Portal, and a Member observed that some reports she expected to find there, such as those on school progress were not available. Members welcomed the portal but expressed hope that it would develop with time and more data would become available and accessible more quickly as the system improved. Members also observed that they would welcome more detailed data with the inclusion of more detailed subsets.

Members discussed the flu vaccine programme and the financial consequences of not being adequately prepared or public complacency in the absence of a flu epidemic. Members noted that the target rate of 60% inoculation had been achieved.

**RESOLVED:**

That the Quarter 1 Performance Report be noted.

**30 The Financial Strategy**

The Head of Finance, Governance and Assurance gave a verbal update on the progress of the Financial Strategy. Member noted that a number of factors had delayed its progress and it was due to be considered by Cabinet on 18<sup>th</sup> October 2017. Although all other milestones remained in place as scheduled.

The Head of Finance, Governance and Assurance explained that there was uncertainty over the retention of 100% of Business Rates following the delay in legislation due to the General Election in June and this had had an impact on the Financial Strategy. He continued that in the report to be considered by Cabinet on 18<sup>th</sup> October 2017, the revised anticipated funding gap would be presented with a plan to manage it through the Economic Growth Plan and Commerciality Strategy. He added that 18 schemes were already in place.

Members noted that Cabinet had met with Grant Thornton, the Council's external auditors where concerns had been raised regarding the identified Value for Money conclusions.

Grant Thornton had allowed access to CFO insights provided by Cliffa and themselves. This gave access to benchmarking of costs across all authorities. Shropshire demonstrated low expenditure per head of population and was in the bottom quintile algorithm for all service expenditure.

The Head of Finance, Governance and Assurance continued that the Financial Strategy would be presented to the Performance Management Scrutiny Committee at its meeting on 22<sup>nd</sup> November, before being considered by Cabinet on 6<sup>th</sup> December and then by Council on 14<sup>th</sup> December 2017. Members noted that this was a tight timescale and gave little time for a considered response to be presented by the Performance Management Scrutiny Committee. It was suggested that the November meeting of the committee should be brought forward to allow more time for this.

In response to a Member's question the Head of Finance, Governance and Assurance confirmed that he anticipated an overspend of £4.2m for the current financial year. He continued that Directors were addressing this. Members were advised that using more one-off savings to address the funding gap in this financial year would result in them not being available in subsequent years. He continued that in previous years the anticipated overspend had been reduced throughout the year and he expected that this pattern would be repeated.

The Chief Executive reminded Members that the Council had a duty to protect people living in Shropshire, and short term actions to reduce spending could have long term impacts through increased costs. It was important that the Council avoided service failure.

**RESOLVED:**

The Financial Strategy be considered at the next meeting of the Committee.

**31 Date/Time of next meeting of the Committee**

**RESOLVED:**

That the next meeting of the Committee be rescheduled to an alternative date to allow adequate time for the preparation of a response to the Financial Strategy if required.

Signed ..... (Chairman)

Date: .....