

**MINUTES OF THE MEETING OF THE
OVERVIEW & SCRUTINY PANEL
HELD AT FOLLATON HOUSE, TOTNES ON
THURSDAY, 6 JULY 2017**

Panel Members in attendance:			
* Denotes attendance		∅ Denotes apology for absence	
*	Cllr K J Baldry	*	Cllr E D Huntley
*	Cllr J P Birch	*	Cllr D W May
∅	Cllr J I G Blackler	*	Cllr J T Pennington
*	Cllr B F Cane	*	Cllr K Pringle
*	Cllr J P Green	*	Cllr M F Saltern (Chairman)
*	Cllr J D Hawkins	*	Cllr P C Smerdon (Vice Chairman)
∅	Cllr M J Hicks		

Other Members also in attendance:
Cllrs H D Bastone, I Bramble, J Brazil, R D Gilbert, J M Hodgson, T R Holway, N A Hopwood, J A Pearce, R C Steer and S A E Wright

Item No	Minute Ref No below refers	Officers in attendance and participating
All		Executive Director (Service Delivery and Commercial Development); Group Manager – Customer First and Support Services and Senior Specialist – Democratic Services
7	O&S.15/17	Group Manager – Business Development
8	O&S.16/17	Section 151 Officer; Deputy Monitoring Officer; Specialist (Assets); Specialist (Place and Strategy) and Specialist (Place Making)
9	O&S.17/17	COP Lead – Housing, Revenue and Benefits and Case Management Manager

O&S.12/17 MINUTES

The minutes of the meeting of the Overview and Scrutiny Panel held on 18 May 2017 were confirmed as a correct record and signed by the Chairman.

O&S.13/17 DECLARATIONS OF INTEREST

Members and officers were invited to declare any interests in the items of business to be considered during the course of the meeting. These were recorded as follows:

Cllr J D Hawkins declared a personal interest in Item 11: 'Hearing Decision Notice Arising from the Code of Conduct Sub Panel Meeting held on 28 June 2017' (Minute O&S.19/17 below refers) by virtue of being a Member of Kingswear Parish Council and remained in the meeting during consideration of this item;

Cllr B F Cane declared a personal interest in Item 8: 'Section 106 Agreements' (Minute O&S.16/17 below refers) by virtue of having sold land for which a Developer had then had to make a Section 106 deposit to the Council and remained in the meeting during the debate and vote on this item.

O&S.14/17 **PUBLIC FORUM**

In accordance with the Public Forum Procedure Rules, the following questions had been received for consideration during this agenda item:

(a) Questions from Lesley Hughes (Town Clerk, Ivybridge Town Council):

1. *I am concerned that the report gives no information on named Officers who could advise Town/Parish Councils or Ward Councillors in respect of the status of 106 obligations, e.g. if work has commenced on site and certain work/payments were due at certain points which can have implications for triggering subsequent payments. Who are the named Officers who will be dealing with this issue? The reason for wanting names is that in Ivybridge we can receive no answers about actions required in respect of the 222 Barratts Homes development where quite significant 106 payments will be made.*

In reply, the Panel Chairman stated that, in bringing the report to the Committee, the Council was reviewing the way in which it monitored contributions due in accordance with Section 106 Agreements. The named officers were for Affordable Housing Section 106s Alex Rehaag or Cassandra Harrison and for Open Space contributions, Rob Sekula.

With regard to the Barratts application and Section 106 contributions, with affordable housing it was all on-site provision and there were no financial contributions to be paid. With regard to the other financial contributions on the development which were due to the District Council, these became due in instalments before the occupation of the 10th dwelling. If there were further questions which the Town Council had, Cllr Saltern asked that he was made aware of these and he would ensure that all queries were answered.

Cllr Saltern proceeded to advised that the Council would put together a list of all Section 106 contributions which had both been received and were due to be received in the future (once the trigger points had been met) to all Town and Parish Councils, so that Town and Parish Councils could also assist in alerting the Council to when trigger points had been met and to keep the Council informed of progress of development.

Finally, Cllr Saltern informed that it was recommended to the Panel under agenda item 8 (Minute O&S.16/17 below refers) that quarterly reports be provided by Finance, Open Space and Affordable Housing officers as part of the quarterly Capital Programme Monitoring reports.

2. *In addition, the Risk section of the report, paragraph 8, Implications fails to include the risk of non-collection of 106 contributions – which is a real risk and has occurred. In the case of Ivybridge, there has been a major problem in that £97,845 Affordable Homes contribution and £14,625 for sports and recreation has not been collected – this dates from an agreement dated 4 October 2011. What actions have been taken to date and what assurances can we have that the money will be recovered? When will the Town Council be able to access the sports money which it needs for a partnership project with Erme Primary School at Victoria Park? How many other 106 Agreements have similarly fallen through the net?*

The Panel Chairman responded by advising that the Council recognised the risk of non-collection of Section 106 contributions. The Council sought to reduce this by placing obligations on the Developer to notify the Council at various points through development. Section 106 Agreements were a registrable local land charge and, in the event of a proposed disposal of land, it was common practice for the Council to be contacted to ensure that obligations had been met. This assisted in the monitoring of Agreements, which had to date been undertaken by officers within Planning.

Where money was not due or not collected at the time the Agreement was entered into, there was provision for interest to be added to the amount due at the time it was to be paid. Such obligations ran with the land and this ensured that Councils could continue to recover contributions or enforce obligations against successive Owners.

Cllr Saltern then confirmed that, in respect of the case cited in this question, the contributions had been paid and were received by the Council within the last week.

In terms of allocation of the funding, subject to local Ward Members and Executive Portfolio Holder agreement, this money could be allocated to Victoria Park.

Finally, the legal department of the Council was pursuing two other cases where the monies due were outstanding on Section 106 Agreements, but as yet, legal proceedings had not been necessary.

O&S.15/17 EXECUTIVE FORWARD PLAN

The Panel was presented with the most recently published Executive Forward Plan and, in discussion, made reference to:-

- (a) the Commercial Property Acquisition Strategy agenda item. Some Members expressed their disappointment that the Strategy had not been presented to the Panel before being considered by the Executive. In reply, officers advised that the Strategy had been scheduled on the Forward Plan for a number of months and its content was broadly the same as the version that had been initially presented to the Executive at its meeting on 9 March 2017 (Minute E.70/16 refers). A Member (who was also a Member of the Invest to Earn Working Group) took issue with this response and felt that there had been significant changes proposed to the Strategy since 9 March 2017 and was therefore of the view that it should be initially presented to the Panel for its consideration.

(POST MEETING NOTE: as a result of this discussion point, the Chairman, in accordance with Overview and Scrutiny Procedure Rule 5.2, called an Extraordinary Panel meeting that would take place on Thursday, 20 July 2017 to specifically consider the draft Strategy);

- (b) the Salcombe Land Holdings agenda item. A local ward Member informed that a video that was currently circulating on social media contained a number of inaccuracies which, in light of the exempt nature of this future agenda item, she would highlight to interested Members outside of this Panel meeting.

O&S.16/17 SECTION 106 AGREEMENTS

The Panel was presented with a report that set out the Section 106 contributions that the Council had received. As of 31 March 2017, it was noted that the contributions totalled £4.413 million.

In discussion, reference was made to:-

- (a) the report being welcomed. In welcoming production of the report, a number of Members felt that it constituted a significant step forward for the Council;
- (b) communication with local Ward Members. A number of Members expressed their disappointment that they had not been kept informed of progress regarding Section 106 Agreement contributions. Further concerns were raised in relation to the apparent lack of emphasis that was currently being given to monitoring and control of the funding arrangements. In taking these points a step further, an additional two recommendations were **PROPOSED** and **SECONDED** to read as follows:

'That the Panel expresses its concern over the lack of emphasis being given to monitoring, control and communication as part of the current process for spending Section 106 funds; and

That the Panel stresses the need for the Council to appoint a person to be responsible for the monitoring, control and liaison with both local Ward Members and town and parish councils as part of the process for spending S106 funds.'

When put to the vote, these additional recommendations were both declared **CARRIED**.

- (c) deadlines to use S106 monies. For clarity, officers confirmed that, whilst it was not necessarily a requirement to have spent the money before the deadline, it must be committed before this time;
- (d) the 5% Monitoring Fee. The Deputy Monitoring Officer stressed that not all Section 106 Agreements had a 5% Monitoring Fee obligation and there was a need, in each instance, to illustrate that it was required and would be directly related to the development. As a consequence, Members noted that they should therefore not assume that the 5% Fee would be applicable for each application;
- (e) improving internal communications within the Council. The Deputy Monitoring Officer gave a commitment that the legal service would re-introduce the process whereby, upon completion of a Section 106 Agreement, notification would be sent to relevant officers with the details of each obligation outlined. The Panel subsequently expressed its support for this suggestion to improve internal communications;
- (f) the accuracy of Appendix A of the presented agenda report. In response to some confusion, officers clarified that Appendix A referred to monies that had actually already been received by the Council and not those signed agreements for which payment was still pending. In stressing the importance of a Schedule being produced that provided this information to all Members, it was **PROPOSED** and **SECONDED**:

'That the Panel requires the production of a Schedule that lists all Section 106 Agreements (irrespective of whether or not payment has been received) for consideration at a future Panel meeting.'

When put to the vote, this recommendation was declared **CARRIED**;

- (g) the criteria to obtain affordable housing contributions. The Panel was of the view that the criteria required greater explanation to all Members during a future briefing session. In addition, the point was expressed that decisions relating to affordable housing contributions should be undertaken by the Council whilst bearing in mind the views of local town and parish councils.

Moreover, a Member cited instances that he was aware of where off-site affordable housing contributions were not materialising in affordable housing actually being developed and requested that this matter be included during the aforementioned Member briefing session.

It was then:

RESOLVED

That the Panel:

1. acknowledges the amount of Section 106 funding held at 31 March 2017 (as set out in Appendix A of the presented agenda report (totalling £4.413 million)) and the proposed future reporting arrangements;
2. expresses its concern over the lack of emphasis being given to monitoring, control and communication as part of the current process for spending S106 funds;
3. stresses the need for the Council to appoint a person to be responsible for the monitoring, control and liaison with both local Ward Members and town and parish councils as part of the process for spending S106 funds;
4. encourages legal officers to introduce revised procedures to ensure more effective internal communications within the Council;
5. approves the flowchart (as outlined at Appendix B of the presented agenda report) that illustrates the process for spending Section 106 funding for Affordable Housing;
6. approves the draft application form for Section 106 funding for Affordable Housing (as outlined at Appendix C of the presented agenda report); and
7. requires the production of a Schedule that lists all Section 106 Agreements (irrespective of whether or not payment has been received) for consideration at a future Panel meeting.

O&S.17/17 REVENUE AND BENEFITS PERFORMANCE AND SERVICE UPDATE

The Panel considered a report that sought to give Members a greater insight into the current performance of the Revenue and Benefits service areas. In addition, the report also provided an update and assurances about how these key areas of business, with high levels of customer interaction, were continuing to develop, using innovative new products that would improve customer service and drive through efficiency.

During the introduction into this agenda item, the Case Management Manager demonstrated the new self-service process for residents to register on the Council website.

In discussion, the following points were raised:-

- (a) Members were informed that there was an error in the published agenda report. Specifically regarding the current backlogs in the Revenues service, the Panel noted that the oldest backlog should read '*2 May 2017*' and not '*2 May 2016*' as had been published. Whilst noting the error, Members still expressed some concerns at the extent of the current backlog of cases within the service;
- (b) In respect of Universal Credits, officers advised that it was intended that those households in the South Hams with a Plymouth area postcode would go live in November 2017, with the remainder of the district then going live in May 2018. As a cause for concern to officers, the Panel noted that early indications were that Universal Credits would result in an additional workload in the Housing Benefits team which would be coupled with a reduction in grant funding. Moreover, a further challenge to the service would result from the Homelessness Reduction Act coming into effect at the same time as Universal Credits;
- (c) When questioned, officers expressed their optimism that the channel shift initiatives that would result in residents having the increased ability to self-serve would help to reduce the work pressures on the service. By way of progress in this regard, officers confirmed that the Council was currently working on developing some automated software that would be able to compute forms itself rather than having to be inputted by an officer. Finally, it was confirmed that promotion of the self-serve initiatives was to be undertaken by the Council's Locality Officers and at upcoming community events.

As a further suggestion, some Members felt that there was scope to reduce the number of letters being sent from the service to residents and send text messages instead. In accepting the point, officers advised that part of the claim form asked responders to express a preference over how they wished to be contacted in the future;

- (d) To provide some context regarding performance, the Panel acknowledged that the Council had traditionally had very high collection rates. Whilst collection rates had reduced slightly in recent years, it was noted that the Council remained in the top half of performing authorities in the county and the top quartile nationwide;
- (e) Some Members expressed their concerns at the potential for the corporate debt recovery function to be undertaken by a third party supplier. In citing reasons such as a potential lack of empathy and additional costs, the Panel formally requested that if such a proposal did emerge, then it be in receipt of a report prior to any final decision being taken.

RESOLVED

That the Panel:

1. recognises the current position and accepts the performance of the Revenue and Benefits Services, whilst expressing some concerns over the current level of backlog;
2. endorses the initiatives and improvements that are currently under development;
3. requests that, in the event of a proposal emerging whereby the debt recovery function is to be undertaken by a third party supplier, it be in receipt of a report prior to any final decision being taken.

O&S.18/17 **SCRUTINY PROPOSAL FORM**

(a) Discretionary Grant Funding Review

The Panel endorsed the request for a Task and Finish Group to be established to review existing sources of discretionary grant funding.

Having endorsed the request, Cllrs Hawkins and Pennington expressed an interest in serving on the Group. Since there was a wish for a third Member to be nominated, the Panel agreed that the Chairman should be given delegated authority (outside of this meeting) to nominate a Member who would take on responsibility for leading this Review.

(POST MEETING NOTE: having been nominated by the Chairman, Cllr D Brown has confirmed his willingness to be the third (and lead) Member of the Task and Finish Group).

(b) Contact Centre / Performance Measures

The Panel proceeded to consider a request to establish a Joint SH/WD Task and Finish Group to review the current set of Council Performance Indicators.

In agreeing to the request, the Panel appointed Cllrs Green, Hicks and Smerdon to be the Council's representatives on the Group. In addition, it was recognised that, as the previous lead Executive Member, Cllr Hicks had extensive knowledge in this area and it was agreed that he should be nominated as the Panel's lead Member for this review.

O&S.19/17 **HEARING DECISION NOTICE ARISING FROM CODE OF CONDUCT SUB PANEL**

A copy of the Decision Notice arising from the Overview and Scrutiny (Code of Conduct) Sub Panel held on Wednesday, 28 June 2017 was presented to the meeting.

When questioned, the Chairman advised that he was not aware that Cllr Trevorrow had accepted the recommended sanction whereby he should make an apology to the Complainants.

It was then:

RESOLVED

That the contents of the Decision Notice relating to an alleged breach of the Code of Conduct by Cllr Trevorrow of Kingswear Parish Council be noted.

O&S.20/17 TASK AND FINISH GROUP UPDATES

(a) Dartmouth Lower Ferry

By way of an update, the Chairman of the Task and Finish Group advised that the next meeting would be held at 11.30am on Friday, 21 July 2017.

O&S.21/17 ACTIONS ARISING / DECISIONS LOG

The contents of the latest version of the Log was presented.

In response to a question, officers gave an assurance that they would ask for a progress update to be circulated to all Members on the pre-application service review.

O&S.22/17 DRAFT ANNUAL WORK PROGRAMME 2017/18

In consideration of its Annual Work Programme, the following comments, additions and amendments were made:-

(a) The Panel requested that it receive updates on the following agenda items before they were considered by the Executive at its meeting on 14 September 2017:-

- Quayside Phase 2;
- Salcombe Land Holdings; and
- Business Rates Relief Policy.

When considering report lead-in times, it was agreed that each of those items be scheduled for consideration by the Panel at its meeting on 24 August 2017;

(b) With regard to the Village Housing Initiatives Update, the Panel agreed that this item should be deferred to its meeting on 9 November 2017;

- (c) In response to a request, it was agreed that a Joint Local Plan Update be scheduled on to the Work Programme for the meeting to be held on 5 October 2017.

(Meeting started at 10.00 am and concluded at 11.55 am)

Chairman