

# TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Executive Committee held at the Council Offices,  
Gloucester Road, Tewkesbury on Wednesday, 11 July 2018 commencing at  
2:00 pm**

**Present:**

Chair	Councillor R A Bird
Vice Chair	Councillor J R Mason

**and Councillors:**

K J Berry, G F Blackwell, R Furolo, M A Gore, J Greening and E J MacTiernan

**also present:**

Councillor P W Awford

**EX.12 ANNOUNCEMENTS**

- 12.1 The evacuation procedure, as noted on the Agenda, was taken as read.
- 12.2 The Chair welcomed Councillor Awford, Chair of the Overview and Scrutiny Committee, who was in attendance to present Item 7, Performance Management Report – Quarter Four 2017/18.

**EX.13 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

- 13.1 An apology for absence was received from Councillor M Dean. There were no substitutions for the meeting.

**EX.14 DECLARATIONS OF INTEREST**

- 14.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.
- 14.2 There were no declarations of interest made on this occasion.

**EX.15 MINUTES**

- 15.1 The Minutes of the meeting held on 6 June 2018, copies of which had been circulated, were approved as a correct record and signed by the Chair.

**EX.16 ITEMS FROM MEMBERS OF THE PUBLIC**

- 16.1 There were no items from members of the public on this occasion.

**EX.17 EXECUTIVE COMMITTEE FORWARD PLAN**

17.1 Attention was drawn to the Committee's Forward Plan, circulated at Pages No. 9-14. Members were asked to consider the Plan.

17.2 Accordingly, it was

**RESOLVED:** That the Committee's Forward Plan be **NOTED**.

**EX.18 PERFORMANCE MANAGEMENT REPORT - QUARTER FOUR 2017/18**

18.1 The report of the Chair of the Overview and Scrutiny Committee, circulated at Pages No. 15-60, asked Members to review and, if appropriate, take action on the observations of the Overview and Scrutiny Committee following its review of the 2017/18 quarter four performance management information.

18.2 Attention was drawn to the observations made by the Overview and Scrutiny Committee, attached at Appendix 1 to the report, to the Council Plan Performance Tracker, attached to the report at Appendix 2, and to the financial information circulated at Appendices 3-5.

18.3 The Chair of the Overview and Scrutiny Committee explained that, as part of the ongoing review of the effectiveness of Overview and Scrutiny, an external trainer had recently provided an overview of the national picture regarding scrutiny and the Chair had found it pleasing to note that the Council's Overview and Scrutiny Committee demonstrated a lot of the traits she had mentioned; however, the one key area where the Council's Overview and Scrutiny Committee's effectiveness could be enhanced was the challenge it gave to the Executive Committee. He thanked those Members that had attended the session, as he felt it had been helpful for both Overview and Scrutiny and Executive Committee Members to be present, and indicated that Executive Committee Members may be asked to attend his Committee to present reports in future, just as he did at the Executive Committee. His Committee Members had also challenged him to be more robust when making his presentations on performance management to the Executive Committee and he had undertaken to meet that challenge.

18.4 In terms of the review of performance management information, the Overview and Scrutiny Committee had noted the information and key actions delivered which included: the excellent performance of the Council's commercial property investments; the appointment of a Growth and Enterprise Manager and a Growth Hub Navigator in readiness for the introduction of the growth hub; the delivery of affordable homes which, at 233, had exceeded the target of 150; adoption of the Public Space Protection Order and the more proactive approach to enviro-crimes which had been seen; and the success of the garden waste 'sticker' project which had now sold 17,094 stickers and generated income of £769,000. The Committee had also recognised that some actions had not progressed as envisaged and had raised particular concern about the review of trade waste and the fact that delivery of the project had slipped for the third time from its original target of April 2017 – the Committee had felt that the positive approach to the garden waste project could be translated to the trade waste service so that it was commercially exploited to the fullest extent. During the recent review of Overview and Scrutiny it was generally accepted that the information reported to it was open and transparent but, in relation to trade waste, there had been references made to an Association for Public Service Excellence (APSE) report which Members were yet to have sight of. The Committee had also identified that the partnership working to bring Healings Mill back into use had slipped a number of times and, whilst it was accepted that this was out of the Council's control to some extent, they had

questioned whether the programme was documented and what the key milestones were as well as whether the milestones aligned to the dates within the performance tracker. In addition, the Committee had noted that one of its Members, who worked in the supermarket arena, had advised that supermarkets had made a commitment to reduce the amount of packaging being used by 40% by 2020 which could reduce the amount of waste being recycled; however, it was positive that the Council's recycling rate had improved from the previous year especially when over half of Councils had seen a reduction in their recycling rates.

- 18.5 During the discussion which ensued, a Member indicated that she understood the Overview and Scrutiny Committee's concerns about the Healings Mill project as the Council had been involved for quite a long time without actually being able to achieve a way forward. She was aware that the owners had refused an offer on the buildings opposite the Mill as they wanted to sell it as a package with the Mill buildings and she was concerned about the area being left to fall into disrepair as some buildings had previously received planning permission which was now expiring. The Member felt there should be something the Council could do to force the issue. In response, the Head of Development Services explained that there had been a lot of discussions with the owners of Healings Mill and the new Conservation Officer had been tasked with looking into what could be done. Some options lay within planning powers and some in areas such as 'Tidy-Up Notices'. Throughout the discussions, the owners had been advised about the expiry of the planning permissions but nothing had been done so there was now a new conversation to be had on that matter. It was anticipated that the masterplan would help with the issues faced and consultation on that would be taking place during the summer. The Member understood that many of the issues were not within the Council's control; however, she felt there needed to be more forceful discussions. She questioned whether there were any legal routes that could be taken to force the owners to do something about the fact the historic building was becoming more and more run down. In response, the Chief Executive explained that any controls the Council may have at its disposal would probably cost a significant amount of money and Homes England was unlikely to put any money into it. He felt that, given the circumstances and the fact that the Council had little influence over the sale, the target date for the project was unrealistic and it was that which needed to be reviewed so that Members did not have expectations that could not be met.
- 18.6 Another Member requested an update on the current situation regarding the letting of the Public Services Centre. In response, the Head of Finance and Asset Management explained that the room on the top floor, which had previously been set up as the Council Chamber, had now been occupied by Mole Valley Farmers on a five year lease. The remainder of the space was currently under offer and Heads of Terms were in the process of being agreed for occupation from September.
- 18.7 Referring to the possibility of selling the Council's trade waste service, the Chair of the Overview and Scrutiny Committee questioned whether this would be possible. In response, a Member indicated that one of the problems with local authorities operating as a business in offering a trade waste service was that they had to compete with the private sector and that was an extremely competitive market. The Joint Waste Partnership was currently considering the possibility of making a joint trade waste scheme but this was in the early stages. The Head of Community Services explained that there were a number of issues with this approach which were set out in the APSE report commissioned by Ubico. There were concerns around sharing that report in full because it did not belong to the Council; however, he intended to take a summary of the document to the Overview and Scrutiny Committee for consideration. In terms of the timescale for discussions with neighbouring authorities regarding a joint authority's trade waste scheme, the Head of Community Services indicated that this was dependent on a number of discussions with different organisations but he hoped to be able to conclude a way

forward during the current financial year.

18.8 Accordingly, it was

**RESOLVED:** That the Overview and Scrutiny Committee's comments on the Performance Management Report for Quarter Four of 2017/18 be **NOTED**.

#### **EX.19 PLANNING ENFORCEMENT PLAN**

19.1 The report of the Head of Development Services, circulated at Pages No. 61-81, attached the Planning Enforcement Plan which had been revised following consultation. Members were asked to approve the Plan as circulated.

19.2 The Head of Development Services explained that the Executive Committee had approved the draft Plan for consultation purposes on 31 January 2018. It had then been published on the Council's website with a paper copy available for inspection at the Public Services Centre. A press release had been issued, the consultation on the Plan had been promoted through social media and it had been sent to the Council's Citizen Panel. In addition, it was sent to all Parishes, Councillors and Officers within the Council and external agencies that worked with, or had an interest in, the enforcement of planning regulations. The consultation period had run for four weeks up to the closing date of Monday 16 April 2018. 21 responses had been received; 13 from members of the public, seven from Parish Councils and one from a partner organisation. The responses had largely been positive with the Plan, its purpose and aims widely welcomed albeit with a small amount of further explanation, changes or additions suggested. In terms of its format, there appeared to be differing views regarding the document being easy to understand, properly referenced and written in plain English to those who regarded it as being difficult to read. The remaining comments included the need for a brief explanation of the County Council's planning enforcement role to be provided in Section 2 of the document to ensure people were signposted to the correct authority; concern regarding the availability of resources to fully implement the Plan; concerns that the Council's discretion to take enforcement action (expediency) made it too easy to take no action; a need to enforce building regulation breaches; and a need for more transparency and reporting of enforcement decisions.

19.3 The Head of Development Services explained that the purpose of the document was to inform members of the public what to do if they had been the subject of an enforcement notice and also how to report a breach. There was a flowchart at the end of the Plan which was felt to be particularly useful. Some improvements to enforcement procedures had also been made and should ensure the whole process was more efficient and effective.

19.4 Accordingly, it was

**RESOLVED:** That the Planning Enforcement Plan be **APPROVED**.

#### **EX.20 SECTION 106 - ALLOCATION OF FUNDS FOR COMMUNITY INFRASTRUCTURE**

20.1 The report of the Community and Economic Development Manager, circulated at Pages No. 83-88, proposed a clear decision-making mechanism for the distribution of Section 106 funds where the Section 106 Agreement was not explicit in where the funding should be directed. Members were asked to adopt the process as set out at Paragraph 3 of the report.

- 20.2 Members were advised that there were a number of agreements made pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) (Section 106) that required the payment of financial contributions towards a range of facilities, including community infrastructure. For a range of reasons, in some instances, the terms upon which those financial contributions could subsequently be spent were not sufficiently specific. Consequently, the allocation of certain Section 106 funds could be subject to prolonged discussions. The report before the Committee sought to establish a clear decision-making mechanism in such scenarios to ensure the funds were allocated appropriately. It was anticipated the process would offer a clear and transparent procedure for applications for funding from Parish and Town Councils and the voluntary and community sector.
- 20.3 The proposed process would involve three stages and was summarised in a flow chart attached to the report at Appendix 1: Council to notify Parish/community of trigger point; community group and/or Parish/Town Council to submit details to Council and Officers to check paperwork and make a recommendation; Head of Development Services to consider application in consultation with a panel of local/Lead Members on the basis of criteria and make a recommendation. Referring to stage 1 of the flowchart, a Member was aware of an issue in Gotherington where the village had held a Parish Poll that decided not to spend money on the Church Centre; she questioned how the Council would consult with the Parish where there was a conflict between it and the community. In response, the Community and Economic Development Manager explained that the Parish, and any local groups Officers were aware of, would be contacted and, ideally, they would work together to provide one submission; if that was not possible the panel would make the decision in consultation with the Head of Development Services. The panel would have to take into account the views of the Parish and the community but, in the event of multiple requests for the same money, the Members would have to make the decision to ensure clarity and transparency.
- 20.4 In response to a query regarding trigger points, the Head of Development Services indicated that these were usually set out in the agreement i.e. upon completion of the twentieth house. The Member questioned what would happen if the Parish/Town Council had aspirations for Section 106 monies which were not achievable and whether the Parish/Town Council/community group had to be ready to submit its application as soon as the trigger point was reached. In response, the Head of Development Services explained that the submission would have to meet the test for community need and a case would have to be made. There was no reason the facilities needed to be delivered immediately as long as the five year period was met. The Member was concerned that the previous system had worked perfectly well and he questioned whether the new system would make it harder for Parishes. In response, the Head of Development Services indicated that the majority of Section 106 applications had no issues but there was a need for a process to address those that were not straightforward. The process outlined by the report sought to make a clear, transparent and auditable process which would be a great improvement. It was certainly not the intention to make the procedure more difficult or slower and the process laid out in the report was roughly what happened already.
- 20.5 At the recent seminar Members had requested information about how much Section 106 monies were currently held by the Council, and not claimed, and how much the Borough Council held on behalf of Parishes. In response, the Community and Economic Development Manager undertook to circulate that information via a Member Update following the meeting. Referring to Paragraph 3.2(3) of the report, a Member noted that, where a Member of the panel had a connection to the application, e.g. sat on the Board or Parish Council that was making an application, they would be required to declare this and not sit on the panel for that decision; he felt that this would affect a lot of Members as most of the submissions would come from Parishes and local Members were likely to also be Parish/Town Councillors.

In response, the Borough Solicitor explained that the panel would be set up so that competing interests could be brought forward where Parish Councils and community groups did not agree – local Members would have to think carefully and decide if they were able to sit on the panel or not. Another Member explained that the amount of changes to Parish and Town Council membership meant there could be an occasion where one set of Parish Councillors had decided how the funds should be spent but, before the agreement was concluded, those Councillors could change and the new Councillors may want the money spent on something else. The Borough Solicitor advised that this would depend on the commitment made and would have to be addressed dependent upon the particular circumstances.

20.6 In response to a query regarding the Community Infrastructure Levy examination, the Head of Development Services was hopeful that the Council would receive the Inspector's draft report by the end of July; if this was the case, it would then be finalised around mid-August. It needed to be remembered that the Council had undertaken to agree a Community Infrastructure Levy with the other Joint Core Strategy authorities so the report would have to be considered by all three Councils.

20.7 Accordingly, it was

**RESOLVED:** That the process for the distribution of Section 106 funds, where the Section 106 Agreement does not explicitly specify how the funding should be directed, be **ADOPTED** as set out in Paragraph 3 of the report.

#### **EX.21 SEPARATE BUSINESS**

21.1 The Chair proposed, and it was

**RESOLVED** That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12(A) of the Act.

#### **EX.22 SEPARATE MINUTES**

22.1 The separate Minutes of the meeting held on 6 June 2018, copies of which had been circulated, were approved as a correct record and signed by the Chair.

#### **EX.23 DISPOSAL OF MAFF SITE**

*(Exempt – Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to the financial or business affairs of any particular person (including the authority holding that information))*

23.1 The Committee considered and agreed the way forward regarding the disposal of the MAFF site, subject to appropriate terms, surveys and legal documentation.

**EX.24 REVIEW OF COMMUNITY SERVICES**

*(Exempt – Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to any individual)*

- 24.1 The Committee considered the outcomes of the review of Community Services and made a recommendation to Council as to the way forward.

The meeting closed at 3:20 pm