

## **EAST DEVON DISTRICT COUNCIL**

### **Minutes of the meeting of Scrutiny Committee held at Council Chamber, Blackdown House, Honiton on 4 April 2024**

#### **Attendance list at end of document**

The meeting started at 6.00 pm and ended at 7.50 pm

#### **81 Minutes of the previous meetings held on 24 January 2024 and 15 February 2024**

The minutes of the meetings held on 24 January 2024 and 15 February 2024 were agreed and signed as a correct record.

#### **82 Declarations of interest**

It was noted that item 8 at minute 87 affects all Councillors who are members of East Devon Town and Parish Councils which are in receipt of S.106 and CIL monies.

#### **83 Public speaking**

One member of the public, Mr Ron Metcalfe, had registered to speak and made the following points with regard to his concerns about EDDC's oversight and management of the assets on Exmouth sea front:

- Residents were asking if the re-routing of the road and construction of Sideshore had caused or contributed to the recent failure of the sea wall.
- There was no evaluation of the impact of development on the sea wall either prior to, or following the failure.
- Vibrations during construction work in 2019 had been felt by residents at some distance and could have impacted the sea wall.
- Lack of rigour in assessing potential risk could have cost the Council and taxpayers in a number of ways, including financially.
- It was recently noted that there are issues of non-compliance with planning permissions on the sea front, including at the small retail units at Sideshore, the amount of square meterage agreed for retail, provision of disabled washrooms and making toilets and changing rooms available to the public. Non-compliance has not been challenged by EDDC.
- Should a TaFF be set up, this should examine the lack of rigour in planning enforcement as well as interrogating previous planning approvals.

One member of the public, Mrs Ann Membery, was unable to attend the meeting and had requested that a statement be read out. The Democratic Services Officer read out the statement which included the following points:

- The member of the public had read the comments by the Leader regarding his awareness of concerns surrounding the previous administration funding a new road and encouraging development so close to the sea wall.
- Planning application 18/0376/MFUL for the development of Sideshore included a flood risk report. The member of the public was of the view that the report should have detected that the sea wall would be vulnerable to collapse due to climate change.
- As EDDC has to meet the cost of repairing the sea wall, as a tax payer, the member of the public was of the opinion that previous officers and Councillors should be scrutinised as to why planning permission was granted and why the flood risk report did not detect a potential failure of the sea wall.
- The member of the public supported the setting up of the TaFF.

The Chair thanked the members of the public for their contributions.

84 **Matters of urgency**

There were no matters of urgency.

85 **Confidential/exempt item(s)**

There were no confidential / exempt items.

86 **Decisions made by Cabinet called in by Members for scrutiny in accordance with the Overview and Scrutiny Procedure Rules**

There were no items called in by Members in accordance with the Overview and Scrutiny Procedure Rules.

87 **Interim update on progress with S.106 and CIL resources and processes**

The Assistant Director Planning Strategy and Development Management introduced the report which provided an update on progress with addressing resourcing issues involved in S.106 obligations and CIL administration. The report was further to a report to the Committee on 7 September 2023 and subsequent resolutions from Cabinet on resourcing these key areas of work.

The Assistant Director introduced the newly recruited Planning Obligations Team Leader.

The following points were highlighted:

- The revised S.106 Monitoring Fees charging schedule is now on the Council's website.
- Three of the four vacancies in the new Planning Obligations Team had now been filled. The Planning Obligations Team Leader was now in post with two officers starting at the end of April and beginning of May.
- The remaining S.106/CIL officer post was still unfilled, and recruitment was proving difficult as this is a very specialist area of work. An interim agency CIL officer was currently in post pending permanent recruitment to the vacant post.
- The development of the best practice guidance for Town and Parish Councils would be undertaken by the new Planning Obligations Team in partnership with the Towns and Parishes.
- The Team is transitioning from the interim arrangements and the work programme is under development.

Discussion and responses to Members' questions included the following:

- The number of outstanding historic S.106 cases had reduced from 150 to below 100. Outstanding CIL debt to be recovered was in excess of £400k.
- Future infrastructure needs are shown in the Infrastructure Delivery Plan available on the Council's website. As infrastructure needs to be provided in a co-ordinated manner with the Council's partners, funds are not necessarily spent as they are collected but are saved towards larger projects, resulting, at times, in seemingly large amounts held by the Council.
- Other S.106 monies are for specific purposes and may be unallocated currently.
- The Planning Obligations Team would be introducing new spending and monitoring processes going forward and this needs to be developed with realistic timescales.
- There is no time limit for CIL expenditure.

- The best practice guidance for Town and Parish Councils would provide a simplified procedure which would better enable Towns and Parishes to engage with the system. The new work plan included providing training for Town and Parish Councils on the new process.
- The remaining vacant post in the Planning Obligations Team was currently filled by agency staff. Recruitment of quality staff with the required specialist skills was difficult currently. Advice from the HR Team had been to wait a few months before re-advertising the vacancy in order to reach a new target audience. Succession planning included training junior officers to take on specialist posts going forward.
- There is no legislation which would allow the Council to stop granting planning permission for those developers failing to fulfil planning obligations. However, the Government is aware that some developers do not comply as required. It is very difficult to pursue payment where a developer has gone into administration.

The Chair thanked the Assistant Director Planning Strategy and Development Management and his team for the report and update. The Committee noted the progress that had been made on addressing the resourcing of CIL and S.106 work. A further update report will be brought to the Committee in late summer 2024.

With regard to the S.106 and CIL Resources and Processes Task and Finish Forum (TaFF), it was agreed to request a scoping report to include a timescale and terms of reference. This would be brought back to the next scheduled meeting of the Committee in June, unless officer resources and capacity allowed for an earlier date to be found in May.

## 88 **Report to Scrutiny on South West Water feedback on the minutes of the meeting held on 1 February 2024**

A report had been circulated which set out the feedback from South West Water (SWW) on the minutes of the virtual consultative meeting held on 1 February 2024.

With regard to concerns relating to a sewage spill in the Cranbrook Country Park, raised under question 11 of the minutes of 1 February 2024 [page 19 of the report], and the subsequent feedback on this issue from SWW, Cllr Kim Bloxham had submitted comments on the SWW response. Cllr Bloxham's comments were read out and highlighted the following points by way of correcting SWW's feedback:

- The sewage spill occurred in the Country Park on the south side of the London Road and the sewers in this part of the Country Park are all adopted by SWW as they preceded the Cranbrook development.
- This leak spilled foul waste from the Rockbeare area carried in a dedicated pipeline to Clyst Honiton and onwards to Countess Wear.
- A new separate sewer system takes foul waste from Cranbrook and does not connect to the pipeline that caused the leak.

Discussion on the feedback from SWW contained in the report included the following:

- The Corporate Lead – Communications, Digital Services and Engagement is currently the single point of contact in EDDC for Member communications with SWW. The forthcoming Members' newsletter would include details of a dedicated contact at SWW.
- With regard to the Water Cycle study, the first draft has been received however, further data is needed, following which the final draft will be circulated to Members. A Member Briefing session with the consultants is currently being arranged with a date to be agreed.

- It was not clear to whom in EDDC the SWW consultation on the Drainage and Wastewater Management Plan (DWMP) had been addressed and whether this had been responded to or not. The Water Cycle study would provide the expert knowledge to enable EDDC to challenge SWW and could lead to changes to the DWMP in the future. SWW had attended a meeting of the Scrutiny Committee in November 2022 and would have been aware of EDDC's concerns at the time the DWMP was being prepared.
- EDDC should be in communication with the Environment Agency as the body responsible for monitoring SWW.
- With regard to the length of time taken to prepare the Water Cycle study, it was noted that consultants are in high demand nationally due to the nationwide issues with sewage spills and that there had also been delays in the consultants obtaining information from SWW.

The feedback from SWW was noted.

## 89 **Scrutiny Committee Annual Report for the civic year 2023 - 2024**

The Annual Report on the work of the Scrutiny Committee during the civic year 2023 – 24 was agreed for submission to the annual meeting of the Council in May.

## 90 **Forward Plan**

### **1 Forward Plan**

Discussion on the Forward Plan included the following points:

- It was noted that the Committee previously received reports on coastal monitoring. The Portfolio Holder for Coast, Country and Environment advised that the reports are very technical and need interpretation by engineers. The reports are continually referred to as part of the on-going beach management plan work for Exmouth, Sidmouth and Seaton.
- The Corporate Lead – Communications, Digital Services and Engagement was requested to liaise with SWW regarding a date for the Committee to meet with them again in September.

It was noted that the Democratic Services Manager is currently preparing the Scrutiny Action Plan following the review by the Centre for Governance and Scrutiny (CfGS).

As part of the CfGS review, it had been recommended that the Committee agree specific elements within a Portfolio on which the Portfolio Holder would be asked to report. It was noted that the next Portfolio holder to report would be Cllr Davey, Portfolio Holder for Strategic Planning, reporting on 6 June 2024. Issues to be covered by the report would be agreed by the Committee beforehand.

The Forward Plan was agreed.

### **2 Resolution from Council on 6 March 2024 regarding Exmouth sea wall**

The Committee was asked to consider the resolution referred from Council on 6 March 2024 regarding the reasons relating to the failure of the Exmouth sea wall and the previous approvals that led to businesses and associated infrastructure being built next to it. The Committee considered whether to carry out further investigation and set up a Task and Finish Forum to undertake the work.

Discussion included the following points:

- There is a need to scrutinise why the Council was not aware that the sea wall did not have good foundations and whether moving the road contributed to its failure.

- The reason the sea wall failed is due to recent storms and a lack of foundations. It is unlikely that the facts could be obtained due to the age of the wall, and the Council should concentrate on repairing the wall which is a huge and expensive undertaking.
- It is crucial to agree the right terms of reference and further discussion on scoping is needed.
- Concern was expressed as to what exactly would be scrutinised and whether the Committee could achieve a good outcome and learn anything for the future.
- The sea wall failure was only one part of the issues raised by the public speaker and other items such as planning enforcement matters also need to be considered.
- It would be prudent to understand what information is still available in the Council and to ascertain whether there is sufficient information to make the scrutiny task worthwhile.

The Assistant Director Planning Strategy and Development Management advised that he had made a note of the planning enforcement issues raised by the public speaker and would report back.

It was agreed to request a detailed scoping report for either the June or July meeting to include terms of reference, a timetable for the investigations to be conducted and a date for presenting the outcomes of a TaFF back to the Committee.

The Committee also noted that a separate report on planning enforcement issues would be brought back in due course.

### **Attendance List**

#### **Councillors present:**

I Barlow  
J Brown  
M Chapman  
R Collins  
M Goodman (Chair)  
A Hall  
J Heath  
V Johns (Vice-Chair)  
D Mackinder  
A Toye

#### **Councillors also present (for some or all the meeting)**

B Bailey  
C Brown  
P Faithfull  
G Jung  
T Olive

#### **Officers in attendance:**

Ed Freeman, Assistant Director Planning Strategy and Development Management  
Andrew Hopkins, Corporate Lead - Communications, Digital Services and Engagement  
Sarah Jenkins, Democratic Services Officer  
Melanie Wellman, Director of Governance & Licensing (Monitoring Officer)  
Anita Williams, Principal Solicitor (Deputy Monitoring Officer)

Jonathan Smith, Planning Obligations Team Leader

**Councillor apologies:**

B Collins

S Smith

J Whibley

Chair .....

Date: .....