

Minutes of a Meeting of the Audit & Governance Committee held in the Council Chamber at Knowle, Sidmouth on 17 November 2016

Attendance list at end of document

The meeting started at 2.30pm and ended at 4.36pm

***24 Chairman's welcome**

The Chairman welcomed everyone to the meeting.

***25 Public Speaking**

Mr Ron Metcalff spoke on agenda item 12 - Findings from objection raised to Statement of Account; this is recorded at Minute 33.

***26 Minutes**

The minutes of the Audit and Governance Committee meeting held on 22 September 2016 were confirmed and signed as a true record.

***27 Declarations**

Councillor Mark Williamson – Minute 32

Interest: Personal

Reason: Member of Exmouth Regeneration Board

Councillor Bill Nash – Minute 32

Interest: Personal

Reason: Member and Trustee of Leisure East Devon (LED)

Councillor Steve Hall – Minute 32

Interest: Personal

Reason: EDDC representative of LED Board of Trustees

***28 Annual audit letter**

Darren Gilbert Director, KPMG updated Members on the Annual Audit letter that summarised the outcome from the audit work in relation to the 2015/16 audit year. Darren confirmed that the Audit Certificate had now been issued. This confirmed that KPMG had concluded the audit for 2015/16 in accordance with the requirements of the Local Audit & Accountability Act 2014 and the Code of Audit Practice.

RESOLVED:

that the content of the Annual audit letter be noted.

***29 Progress report**

Rob Andrews from KPMG, presented the Council's Progress report which provided the Audit Committee with an overview on progress in delivering their responsibilities as the external auditors. Darren introduced Rob Andrews as the new audit manager for KPMG. There was no technical update for the committee to note. The Annual Audit Letter had been completed and the Grants Certification work was progressing smoothly.

The Chairman thanked Darren and Rob for their reports.

RESOLVED:

that the content of the Progress report be noted.

***30 Risk management review – half year review**

The Strategic Lead, Finance provided the Risk information for the 2016/17 financial year until September 2016 in order for the Committee to monitor the risk status of Strategic and Operational Risks. This followed the 1st full review of risks by responsible officers for 2016/17. The 3 High risk scores in Economy had been revised to Medium risk. Child protection would remain a High risk as this was a crucial part of the Council's work.

RESOLVED:

that the Risk management review be noted.

31 Future of External Audit

The Strategic Lead, Finance presented this report. Following the demise of the Audit Commission new arrangements were needed for the appointment of external auditors. The Local Audit and Accountability Act 2014 required authorities to either opt in to the appointing person regime or to establish an auditor panel and conduct their own procurement exercise.

RECOMMENDED:

that it be recommend to Council that EDDC opts in to the appointing person arrangements made by Public Sector Audit Appointments (PSAA) for the appointment of external auditors.

***32 Partnership Register**

Partnership information for the 2015/16 financial year until March 2016 allowed the Committee to monitor the status of the Council's partnerships. This followed the year end review of partnerships by responsible officers for 2015/16.

Discussions included the following:

- Greater Exeter Great Devon was a forum to discuss strategic matters
- The governance arrangements for regeneration boards were written in the terms of reference adopted at the first meeting
- Seaton Regeneration Board was now finished as the projects had been completed
- Greater explanation was needed for the Blackdowns Hills AONB

RESOLVED:

1. that the current status of partnerships until March 2016, and
2. greater explanation for the Blackdowns Hills AONB be noted.

***33 Findings from objection raised to Statement of Account**

Mr Ron Metcalff spoke on the KPMG investigation focused on the Cranbrook development and commented on weaknesses in systems there. The Cranbrook development was only one of many in the District, and KPMG only examined s106 agreements within the 2015/2016 financial year. It was therefore likely that EDDC's s106 payment due figures were understated and had been for some years.

In a Freedom of Information request it was disclosed that £730,000 in s106 payments was owed to EDDC. Mr Metcalff asked;

1. would the committee require EDDC staff to prepare and carry out a plan to recover the £730,000 in s106 payments owed to EDDC during financial years 2014/2015 and 2015/2016?

2. Would the committee require EDDC staff to devise and implement policy or protocol changes to be put into place to ensure that any breach of payment of s106 monies was fully and proactively enforced?

Answers and explanations to Mr Metcalff's questions included the following;

- KPMG chose to investigate Cranbrook as this gave greater coverage, however minor developments were considered
- KPMG had found a number of appropriate and reasonable controls in place
- There were hundreds of live s106 agreements at any one time
- Developers returns were accumulative so the 2015/16 accounts would capture any previous years monies due so were current
- There had been no evidence of any financial loss
- The legal obligation was on the developer to provide information when trigger points were met although officers should monitor this
- Future reports on s106 collections would be reported back to the Committee
- S106 agreements were also legal procedures, which were tied to the land and therefore become statutory local land charges. Enforcement would be outside of the Council
- There was an enforcement policy and this would be used where necessary to recover outstanding debts
- The £730k referred to included £409k invoiced to the Council on behalf of another body

The report summarised the key findings and conclusions arising from a formal objection received from a local elector in relation to East Devon District Council's 2015/16 financial statements.

Such an objection was received by KPMG in August 2016. Through this objection the elector raised concerns about the Council's arrangements for recording, monitoring and seeking payment of developer contributions due to the Council through agreements under s106 of the Town & Country Planning Act 1990, and the accounting for the sums due. In particular, it was asserted that:

- whilst the Council had a record of how many s106 agreements it had entered into with developers, there was no systematic method in place for the collection and aggregation of amounts due from individual agreements;
- monies due in relation to s106 agreements were not systematically identified and communicated to the Council's Finance department;
- amounts due were not tracked regularly and there was no process to inform Finance if they were unpaid and become overdue;
- these weaknesses suggested that the Council was not accounting for the true amounts due from s106 agreements; and
- as a consequence it would appear that the Council cannot demonstrate that it was securing value for money in the use of its resources.

These concerns formed the basis of the work performed by KPMG to determine if the Council had appropriate process and controls in place for its s106 agreements to secure economy, efficiency and effectiveness in the use of resources, and to ensure complete and accurate accounting for the sums due.

The report stated although no evidence that weaknesses had led to any financial loss, it had led to the Council failing to identify on a timely basis significant amounts which had

become payable from developers; particularly Cranbrook, and consequently to the understatement of these amounts in the Council's financial statements.

Whilst formal audit powers had not been exercised in response to the objection, this work had indicated that the issues raised by the objector were correct.

Discussions included the following;

- the need for progress reports to be presented at the Committee to include whether interest has or has not been charged
- holds up Town and Parishes being able to spend on facilities
- a new software system was in place to collate a centralised record of s106 contributions

RESOLVED:

that the following be agreed;

1. Absence of summarised financial information

Develop a record of all s106 contributions detailing the financial contributions expected, the relevant trigger and current collection status. This record should be accessible to Finance to inform the recognition of s106 income and the raising of invoices. The Council should also ensure that it had its monitoring information in a format which was consistent with the s106 agreements. This would allow the Council to more accurately track the outstanding debts owed to it and ensure prompt payment.

2. Enforcement of legal obligations

Ensure the information provided by developers was in line with that required under the s106 agreements. Any delayed returns from developers should be followed up on a timely basis to ensure that complete information was obtained and payment of contributions was made.

3. Understanding of financial and accounting implications of triggers being met and the communication between Planning and Finance over this

Money due to the Council under s106 agreements should be accrued as soon as the Council becomes aware that conditions for payment had been triggered. Regular communication between Finance and Planning, to ensure that Finance were aware of when triggers had been met, should be implemented.

- 4.** that Town and Parish Councils be informed when contributions had been received for their areas.

34 Local Code of Corporate Governance

The Strategic Lead, Legal, Licensing and Democratic Services presented the Council's adopted Code of Corporate Governance. This sets out the overarching approach to corporate governance arrangements and was adopted in January 2012 so was now overdue for review. Following changes to relevant guidance there had been revisions to the Code.

RECOMMENDED:

that the Committee recommend to Cabinet that the revised Local Code of Corporate Governance be adopted.

***35 Audit and Governance Forward Plan**

Members noted the contents of the Committee Forward Plan for 2016/17.

Items to be considered at the January Committee included:

- Internal Audit Activity – Quarters 2&3 2016/17
- Audit Committee update
- Certification Report
- Anti-Money Laundering Policy approval
- Analysis of consultants fees 2015/16

RESOLVED:

that the Forward Plan be noted.

Attendance list

Present:

Councillors

Mark Williamson (Chairman)

Dean Barrow (Vice Chairman)

Steve Hall

John Dyson

Ben Ingham

Bill Nash

John Humphreys

Ian Thomas Portfolio Holder Finance

Megan Armstrong

Geoff Jung

Cathy Gardner

Apologies:

Steve Gazzard

Paul Diviani Leader

Officers:

Mark Williams, Chief Executive

Simon Davey, Strategic Lead – Finance

Henry Gordon Lennox, Strategic Lead - Legal Licensing and Democratic Services

Ed Freeman, Service Lead - Planning Strategy and Development Management

Amanda Coombes, Democratic Services Officer

Darren Gilbert, Director, KPMG

Rob Andrews, Audit Manager, KPMG

Chris Parsons, KPMG

Moya Moore, Assistant Director, SWAP

Chairman Date