

## **EAST DEVON DISTRICT COUNCIL**

### **Minutes of the meeting of Scrutiny Committee held at Council Chamber, Blackdown House, Honiton on 7 September 2023**

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

The meeting started at 6.00 pm and ended at 8.07 pm

#### **9 Minutes of the previous meeting held on 6 July 2023 and minutes of the meeting held on 2 March 2023**

The minutes of the previous meeting held on 6 July 2023 and the minutes of the meeting held on 2 March 2023 were agreed as a true record.

#### **10 Declarations of interest**

Minute 15. Section 106 and CIL Resources and Processes.  
Councillor Ian Barlow, Personal, Member of Sidmouth Town Council which is in receipt of S.106 monies.

Minute 15. Section 106 and CIL Resources and Processes.  
Councillor Paul Hayward, Personal, Clerk to Axminster Town Council which is in receipt of S.106 monies.

Minute 15. Section 106 and CIL Resources and Processes.  
Councillor Sarah Jackson, Affects Non-registerable Interest, Details of the nature of the interest are withheld under S.33 of the Localism Act 2011.

Minute 15. Section 106 and CIL Resources and Processes.  
Councillor Vicky Johns, Personal, Member of Ottery St Mary Town Council which is in receipt of S.106 monies.

#### **11 Public speaking**

One member of the public had registered to speak at the meeting. Mr Jack Rowland spoke on agenda item 11.1, the proposal form for car parking tariffs and advised that it was incorrect that the cost of all car parking across the district had been increased by 100% in 2022, as stated on the proposal form. Mr Rowland noted that some car parking tariffs had remained the same, and that over the winter period, the cost of car parking was £2 per day. Residents were also able to purchase car parking permits with an option of paying £10 per month.

Prior to the increases in 2022, car parking tariffs had not been increased for a decade and it was important to consider the overall budget plan. When compared with other local authorities in the southwest, East Devon was not the most expensive as stated on the proposal form. Mr Rowland gave examples of other authorities which were increasing their charges again. Mr Rowland also noted that it had always been the intention for a report reviewing the impact of the increase in car park tariffs to be considered by Cabinet in the autumn of this year, and so queried the timing of the submission of the proposal form.

The Chair thanked Mr Rowland for his contribution.

12 **Matters of urgency**

There were no matters of urgency.

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

There were no confidential / exempt items.

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

There were no decisions made by Cabinet called in by Members for scrutiny.

15 **Section 106 and CIL Resources and Processes**

The Committee considered the report from the Assistant Director – Strategic Planning and Development Management on Section 106 (S.106) and Community Infrastructure Levy (CIL) resources and processes. The report highlighted a number of issues in relation to the Council's work in administering planning obligations such as CIL and S.106 agreements. Some of the issues had been highlighted in an audit in 2020 and while actions recommended by the audit were completed, due to various staffing issues there was a significant backlog again. The report proposed measures to address this, including a new staffing structure within the planning team that would be funded by a revised S.106 monitoring fees charging schedule as well as changes to the process for the spend of S.106 monies to try and reduce the administrative burden on the Council.

The Chair advised that he had visited six Town and Parish Council Clerks and had also spoken to Cllr Johns in her capacity as Chair of Ottery St Mary Town Council. The Chair had written a report with recommendations which had been seen by the Assistant Director – Strategic Planning and Development Management. The Chair's report would be circulated to Members following the meeting.

Discussion of the Assistant Director's report included the following points:

- As the Strategic Planning Committee had already considered the same report and had agreed the report's recommendations to Cabinet, it was questioned why the report had come to the Scrutiny Committee.
- At the previous meeting of the Scrutiny Committee, it had been noted that Town and Parish Councils across the district were having problems with accessing S.106 and CIL monies, and the Committee had considered this an important matter to scrutinise.
- Concern was expressed that the equalities impact assessment should not be low impact, as shown in the report, but should be high impact as S.106 is time limited.
- Members were aware of cases where S.106 money had been returned to developers as the time limit had expired.
- There was concern that the proposals for staffing arrangements set out in the report would take a long time to implement and it was suggested that an interim arrangement should be put in place to ensure that S.106 monies due to town and parish councils are not lost in the meantime.
- Members noted that there are around 150 cases where a notice of payment had been issued and where monies remained outstanding. It was questioned who would make the decision as to whether it was expedient or not to pursue these outstanding funds in the case of the smaller amounts.
- It remains unclear as to why it has taken so long to resolve the issue with S.106 and CIL resources and processes and there is a need to understand what has happened. It was

suggested that it would be beneficial to meet with the Clerks, Chairs and Deputy Chairs of the larger town and parish councils to understand what the problems are.

- It was noted that the Town and Parish Councils need training on how to manage S.106 and CIL, and that this has been acknowledged by the Assistant Director – Strategic Planning and Development Management.
- More staff have been taken on in the past and this did not resolve the issues.
- Private contractors could be brought in to assist with staff resources in the short term.
- Advice could be sought during the upcoming peer review and the processes used in neighbouring councils could be looked at.
- The whole S.106 and CIL process has been opaque when it should be open and transparent.
- Concern was expressed that the on-going issues with S.106 and CIL have a negative impact on the leisure strategy.
- The Council owes it to the local communities to bring in contractors to sort out the issues.
- It was noted that progress was being made but that this was then impacted by staff leaving.
- It was particularly urgent to have an initial push at resolving the issues.
- There was concern that the proposed structure and number of staff would not be sufficient to deal with the issues.
- The Parish and Town Councils could assist with providing information on developments.
- A Task and Finish Forum could be set up to consider various issues including how to ensure payments are collected so that Town and Parish Councils can spend the money they are owed. The TaFF could consist of Scrutiny Committee members with Overview Committee members invited.
- It was noted that the Assistant Director's report would continue through the Strategic Planning Committee process to Cabinet.

The Deputy Monitoring Officer advised that advice would need to be given through the Chair on the political balance and number of members on the TaFF. Notice of setting up the TaFF had not been given due to it arising from the discussion at the meeting, and members of the Overview Committee would not be aware of the discussion and subsequent decision. The TaFF could be held virtually.

#### **RESOLVED:**

To set up a Scrutiny Committee Task and Finish Forum, with members of the Overview Committee invited to participate, in order to consider various issues regarding S.106 and CIL monies collection and spend.

Members of the Scrutiny Committee and the Overview Committee would confirm their interest in joining the TaFF to the supporting Democratic Services Officer.

The following recommendations to Cabinet were then agreed:

#### **RECOMMENDATIONS TO CABINET:**

1. Recommend that Cabinet support the proposed revised S.106 Monitoring Fees charging schedule appended to the report [Report on Section 106 and CIL Resources and Processes] and recommend to Council that these charges be applied with effect to Section 106 agreements associated with planning applications received once the new charges have been published on the Council's website.
2. Recommend to Cabinet and to Council that the proposed Planning Obligations Team incorporating the existing CIL and Section 106 Officer posts and the proposed new Planning Obligations Manager and Planning Obligations Support Officer posts be created with the new posts to be funded from S.106 Monitoring Fees and CIL admin funds.

3. Recommend to Cabinet that the current spend process for S.106 receipts for spend in the community on play areas, open space and other community spaces be amended as per option 2 as detailed in the report and delegated authority be given to the Assistant Director – Planning Strategy and Development Management to issue best practice guidance on the Council's website on how Town and Parish Councils should engage their communities on spend decisions.
4. Recommend to Cabinet that an interim solution be found to put resources in place as soon as possible in respect of dealing with the approximately 150 outstanding cases where a notice of payment has been issued and monies remain outstanding.

The following was then agreed:

**RESOLVED:**

1. That the Scrutiny Committee receive an update report in late Summer 2024 to advise of progress in forming the new planning Obligations Team and their progress in addressing the issues highlighted in the report, and
2. That the Scrutiny Committee receive an interim update on progress in February 2024 as a matter of urgency.

**16 Update on the draft Scrutiny Protocol - Monitoring Officer**

The Deputy Monitoring Officer advised that the Monitoring Officer had been working on the draft Scrutiny Protocol and that there was a slight delay pending advice from the Centre for Governance and Scrutiny. It was anticipated that the draft protocol would come to the October Committee meeting.

**17 Update on progress with the quarterly performance report task force - Committee Chair**

The Chair provided an update on progress with reviewing the quarterly performance report. The Chair and Vice-Chair had held a very positive meeting with the Management Information Officer. It had been agreed by senior officers and internal audit that changes to the report were needed and a number of recommendations were being followed up.

The Chair, Vice-Chair and Cllr Whibley had been invited to attend the performance review workshop. It had been agreed with officers to bring the next quarterly performance report for quarter 2 to the November Scrutiny Committee meeting. This to be added to the Forward Plan.

**18 Forward Plan**

The Committee considered two proposal forms regarding:

1. a review of car parking tariffs, and
2. a review of public toilets.

**1. Car parking tariffs**

The Chair advised that he had submitted the proposal form in order to assist Cabinet with the provision of information when it considers its review of car parking tariffs in November.

The discussion included the following points:

- Concern was expressed that the incorrect figure regarding the increase in car parking tariffs contained in the proposal form was being quoted in the media.
- A number of complaints regarding car parking tariffs had been received, although this had not been indicated on the proposal form.
- Car parking permits should be publicised more widely and particularly when members of the public make a complaint regarding car parking tariffs.
- Information on parking permits could be included when council tax bills are sent out.
- As Cabinet would be reviewing the increase in car parking tariffs, it was not appropriate for Scrutiny to review at the present time.
- It was noted that district wide car parking tariffs would have a detrimental impact on asset transfers in Beer.
- It was suggested that proposal forms be fact checked by officers before publication.
- Any review of car parking tariffs should be undertaken with full information and there was a need to agree what data would be required for a review.

The Deputy Monitoring Officer advised that the Committee should agree the exact nature of what would be included in any review.

As Cabinet would consider an officer's report on the increase in car parking tariffs at its November meeting, or when the report was ready, it was agreed to defer this item on the Forward Plan until Cabinet had discussed this matter.

## 2. Public toilets

The Chair advised that he had met with officers to discuss issues with public toilets in Sidmouth and that, in his view, there was a lack of public awareness regarding the previously agreed toilet strategy which has begun to be implemented. Information regarding public toilet provision in Sidmouth had recently been published on the Council's website.

As a result of discussions with officers, the Chair wished to withdraw this proposal form and had submitted a proposal form to the Overview Committee instead.

The Chair of the Overview Committee advised that she was only looking for an update from officers on progress with implementing the toilet strategy.

## Forward Plan

With the amendments as agreed at the meeting, the Forward Plan was agreed.

## **Attendance List**

### **Councillors present:**

J Bailey

I Barlow

M Chapman

R Collins

M Goodman (Chair)

A Hall

J Heath

J Kemp (Vice-Chair)

D Mackinder

A Toye

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

P Arnott  
B Bailey  
P Hayward  
N Hookway  
B Ingham  
S Jackson  
V Johns  
G Jung  
M Rixson

**Officers in attendance:**

Andrew Hopkins, Communications, Digital Services and Engagement Manager  
Sarah Jenkins, Democratic Services Officer  
Anita Williams, Principal Solicitor (Deputy Monitoring Officer)

**Councillor apologies:**

B Collins  
S Smith  
J Whibley

Chair .....

Date: .....