

# Minutes

## Performance Management Scrutiny Committee

18<sup>th</sup> May 2022



### Present

Councillors	Present	Councillors	Present
J Coleridge	No	S Rehman	Yes
G Courtauld	Yes	B Rose	Yes
Mrs C Dervish	Yes	P Schwier (Vice-Chairman)	Yes
T Everard	Yes	N Unsworth	Yes
M Radley (Chairman)	Yes		

### 1 DECLARATIONS OF INTEREST

**INFORMATION:** There were no interests declared; however, in response to a query raised by Councillor P Schwier about the need to declare an Interest as a Member of the Planning Committee, Mrs E Wisbey, Governance and Members Manager, confirmed that Councillor Schwier was able to participate in the meeting as the Committee would be examining Section 106 in terms of its delivery, not specific applications.

### 2 MINUTES

**DECISION:** The Minutes of the meeting of the Performance Management Scrutiny Committee held on 23<sup>rd</sup> March 2022 were approved as a correct record.

### 3 PUBLIC QUESTION TIME

**INFORMATION:** There were no questions asked, or statements made.

### 4 SCRUTINY REVIEW INTO 'SECTION 106 – OPEN SPACES AND NHS EXPENDITURE' – INTRODUCTION TO TERMS OF REFERENCE AND WORK PROGRAMME

**INFORMATION:** Members gave consideration to a report which introduced them to the latest topic for the purposes of Scrutiny Review, 'Section 106 – Open Spaces and NHS Expenditure.' Miss J Mann, Governance and Members Officer, was invited to present the report to Members and outline the proposed Terms of Reference (TOR) and anticipated Work Programme for 2022/23 for the Committee. Prior to the report, Members were reminded that following the publication of the agenda, an alternative set of draft TOR had been circulated to Members and published on the Council's website in advance of the meeting. A supplementary report provided by the Chairman had also been circulated.

It was explained that the topic was first submitted for potential Scrutiny Review by the Chairman, Councillor M Radley, as a means of establishing a clearer understanding of the Council's performance in this area and the reasons behind any delays that were

experienced in terms of their use. The initial observations from Management Board were that it would be more appropriate to take the topic forward through the forum of either a Member Development Evening or a Member Reference Group (MRG), as opposed to a Scrutiny Review. However, the Chairman felt that there was a performance issue in respect of Section 106 and as such there was merit in taking the topic forward for Scrutiny Review. The remaining Chairmen of the four 'Scrutiny' Committees were broadly in agreement with Councillor Radley's comments.

Alongside the Scrutiny Review, Councillor Mrs Spray, Cabinet Member for Planning and Infrastructure, had agreed to form a Members Reference Group (MRG) to further understand the constraints in respect of Section 106 expenditure and to make recommendations for improvement. Rather than duplicate the work of the Scrutiny Committee, the MRG would report back to the Committee with its findings at a later stage as part of a knowledge gathering exercise.

The Chairman was then invited to present his supplementary report, which provided the Committee with further detail as to the reasons behind the choice of 'scrutiny' topic, as well as some performance data and initial observations from the Chairman. The report highlighted that in 2019/20, the Council's Infrastructure Funding Statement (IFS) was published, which was then followed by a second publication in [2020/21](#). Although the IFS documents indicated that a number of excellent projects had been implemented, it appeared that the Council still held circa £6million in unspent funds. The Chairman reported that he had since requested further information from Council Officers in order to better understand performance in terms of spending, as well as a breakdown of the funds being held. Included as part of the report was an analysis from the Chairman of the information that was provided by officers.

There followed a general discussion by Members. The following information was provided in response to the questions that were raised:-

- Members were advised that NHS representatives would be invited to attend an upcoming meeting of the Committee as part of its evidence gathering, enabling Members to raise key questions around the reasons behind the unspent funds held in the Council's account.
- It was the function of the Committee to review Section 106 provisions through the remit of the TOR and make subsequent recommendations to the Cabinet, not to make decisions on the use of Section 106 monies.
- One suggestion from a Member was that the Committee examined restrictions around Section 106 monies which were written into contracts, especially those which were considered to be outdated, and the associated constraints.
- A line of enquiry to be explored was around the historic allocation of Section 106 monies to parishes (e.g. if/when this was in place, why the process was changed, etc).
- A query was raised as to how many third party organisations or recipients were involved in 'holding up' Section 106 expenditure, and whether the Council pursued these. It was agreed that this was a question that could be raised with Officers as part of the Committee's evidence gathering.
- Governance Officers agreed to conduct some research into the background of Section 106 monies and circulate their preliminary findings to Members.

- Members were reminded that due to the Elections in May 2023, there was a shorter than usual timescale allocated for the duration of the Scrutiny Review, which should be taken into consideration when identifying their lines of enquiry.
- It was highlighted that a potential recommendation for the Scrutiny Review could be around making the Section 106 process clearer and easier for people to understand in terms of how it was communicated. It was added that any such recommendations would need to be evidence based.
- The Council's Planning and Section 106 Monitoring Officers had been identified as future witnesses to be invited to an upcoming meeting of the Committee. Councillor Mrs G Spray, Cabinet Member for Planning and Infrastructure, and representatives from NHS property services, had also been identified to come forward as witnesses.
- A number of potential questions which could be raised with witnesses were identified by a Member, the questions of which were around the circumstances for changing the definition of Section 106 and the implications, the completion of a project and the circumstances for granting extensions.
- Another potential witness for the Scrutiny Review was a representative from Legal.
- An 'explanation leaflet' of sorts on the Section 106 process could perhaps be considered as part of a future recommendation of the Committee.
- It was explained that a Section 106 agreement represented an agreement between two parties (the developer and the Council as the Local Planning Authority), and each one was bespoke to the development being proposed.
- Although it was not the purpose of the Scrutiny Review for Members to scrutinise specific Section 106 agreements, Members were encouraged to research Section 106 agreements in order to gain a clearer understanding of what was included within them and how historic agreements differed from more modern ones.

Further to the discussion, the Chairman encouraged any Members who wished to do so to submit an expression of interest to Councillor Mrs Spray, upon request, should they wish to participate in the MRG.

In terms of next steps for the Scrutiny Review, the Chairman made the following suggestions:-

- 1) The Performance Management Scrutiny Committee (the Committee) welcomed and supported the formation of the MRG on the topic of Section 106;
- 2) The MRG should focus on those aspects of Section 106 expenditure under the control of the Council such as Open Spaces and similar developer contributions. The Committee requested that the MRG report back its findings and recommendations to the Committee for the purposes of scrutiny upon the completion its work, and this should ideally take place at the Committee's meeting on 21<sup>st</sup> September 2022, and;
- 3) The Committee should scrutinise the NHS expenditure by requesting their attendance at the next meeting of the Committee on 27<sup>th</sup> July 2022 to explain their plans for the funds being held by the Council.

Members were in agreement with the suggested next steps as read by the Chairman.

It was added that it would be useful to invite Councillor Mrs G Spray as the relevant Cabinet Member and the Council's Section 106 Monitoring Officer to the next meeting of the Committee on 27<sup>th</sup> July 2022.

In respect of the recommendations to be identified from the Scrutiny Review, Members were reminded that any such recommendations needed to be evidence based.

**DECISION:** That the Performance Management Scrutiny Committee:-

- 1) Agreed the Terms of Reference for the Scrutiny Review into 'Section 106 – Open Spaces and NHS Expenditure;'
- 2) Noted the anticipated Work Programme of the Committee for 2022/23, and;
- 3) Considered the steps they wished to take next in order to commence the Scrutiny Review and agreed to the steps as set out above by the Chairman.

**REASON FOR DECISION:** To outline the Terms of Reference (TOR) for the Scrutiny Review into Section 106 – Open Spaces and NHS Expenditure' which were agreed by the Chairmen of the four 'Scrutiny' Committees together with the support of Governance Officers and Management Board. The report also outlines the anticipated Work Programme 2022/23 for the Performance Management Scrutiny Committee.

To ensure that the Scrutiny Review into 'Section 106 – Open Spaces and NHS Expenditure' is completed within a stipulated timeframe and that it is in compliance with the Council's procedural rules for Scrutiny.

5 **DECISION PLANNER – 1<sup>ST</sup> JUNE 2022 TO 31<sup>ST</sup> AUGUST 2022**

**DECISION:** The Decision Planner for the period 1<sup>st</sup> June 2022 to 31<sup>st</sup> August 2022 was noted.

The meeting was closed at 8.09pm.

Councillor M Radley  
(Chairman)