

Overview and Scrutiny Committee
24 SEPTEMBER 2018

Present: Councillors: Leonard Crosbie (Chairman), David Coldwell (Vice-Chairman), Toni Bradnum, Matthew French, Nigel Jupp, Lynn Lambert, Tim Lloyd, Mike Morgan, Brian O'Connell, Kate Rowbottom and Michael Willett

Apologies: Councillors: Paul Clarke, Jonathan Dancer and Billy Greening
Absent: Councillors: Ben Staines

Also Present: Godfrey Newman, David Skipp and Claire Vickers

SO/25 **MINUTES**

The minutes of the Committee held 23rd July 2018 were approved as a correct record of the meeting and signed by the Chairman.

Regarding the recommendation to the Governance Committee (SO/18) there continued to be divided opinions amongst the Committee on whether the Committee should report directly to Council instead of the Cabinet. Therefore the Committee agreed that the Chairman would discuss this outside the meeting with the Chief Executive and the Monitoring Officer and bring a recommendation back to the next meeting

SO/26 **DECLARATIONS OF MEMBERS' INTERESTS**

There were no declarations of interest.

SO/27 **ANNOUNCEMENTS**

There were no announcements.

SO/28 **CABINET MEMBER INTERVIEW**

The Cabinet Member for Planning and Development was invited to the Overview and Scrutiny Committee as part of the Cabinet Member interviews.

A number of questions had been submitted in advance of the meeting by Members of the Committee and the answers were presented at the meeting.

Question 1.

How many new build homes were completed within Horsham District in 2017?
What percentage of these were affordable homes as a whole? How many

homes within Horsham District currently have the benefit of planning permission but have not been built out?

Answer:

West Sussex County Council provides all districts and boroughs in West Sussex with annual housing completion figures. These figures are provided in September/October each year and cover the period 1 April to 31 March for the preceding year (ie: for the financial year). The housing completion figures are reported by West Sussex local authorities in Authority Monitoring Reports (AMR) each December. The housing completion figures from West Sussex County Council do not include completion dates, so it is not possible to give a housing completion figure for Horsham District for the calendar year of 2017. Horsham District Council's AMR for 2016/17 shows that there were 795 net completions between 1 April 2016 and 31 March 2017, of which 186 (23%) were affordable. HDC has received draft net housing completion figures for 2017/2018 (1 April 2017 to 31 March 2018) and is currently checking these figures but they are likely to be in excess of 1,000 homes. These figures will be reported in the 2018 HDC Authority Monitoring Report at the end of this year.

In terms of sites with existing permissions within the District that have not yet been built out, this totals just under 5,100 dwellings.

Question 2.

Where do Neighbourhood Plans sit within the legal framework of dealing with planning applications? Which takes priority, the National Planning Framework, the Horsham District Planning Framework or the Neighbourhood Plans?

Answer:

Where adopted (or 'made'), any Neighbourhood Plan, like an adopted Local Plan, becomes part of the formal Development Plan for an area. In Horsham we have a number of 'made' neighbourhood plans which sit alongside the Horsham District Planning Framework (our Local Plan), as part of the Council's formal Development Plan for the area. In legal terms, these two types of plan sit alongside one another. Generally, neither plan takes priority over the other.

The difference between the Local Plan and Neighbourhood Plans is that the Local Plan contains strategic policies such as those relating to key policy designations (ie. Green Belt or AONB), the overall development strategy for an area, or policies proposing major new development or infrastructure provision. Neighbourhood Plans only deal with non-strategic 'local' matters. Local Plans can of course, also deal with 'non-strategic' matters.

Conflicts between plans rarely arise because when examining new Neighbourhood Plans, examiners are careful to ensure that those neighbourhood plans 'are in general conformity with the strategic policies' contained within the adopted Local Plan for the area. However, sometimes, where Local Plans do contain policies relating to non-strategic matters, there

can be a lack of clarity about which policy document should take precedence. Where this occurs, case law suggests that generally, the more recently adopted plan may take precedence.

The NPPF is not part of the Development Plan, but its content must be taken into account when preparing both the Local Plan and Neighbourhood Plans. It is also a material consideration when making planning decisions. When examining both Local Plans and Neighbourhood Plans, planning inspectors will look to ensure that plans take full account of the NPPF, as it is in essence, the Government's planning policy.

Planning law requires the Council to make planning decisions in accordance with its Development Plan (ie. the combined policy framework of our Local Plan and if they exist, a local Neighbourhood Plan) unless material considerations indicate otherwise.

Where any member feels that there may be a potential conflict between an adopted Neighbourhood Plan policy and an adopted Horsham District Planning Framework policy, it is worth giving one of our planning officers a call, to talk it through, to enable the officer to provide further clarity.

Question 3.

Neighbourhood Plans were put forward by the government to allow local communities to map out their own future development proposals thereby encouraging more homes in addition to the larger strategic sites. When developers put forward planning applications that very clearly contravene policies in those Neighbourhood Plans, why aren't the Neighbourhood Plans upheld through recommendations to Planning Committees?

Answer:

Windfall sites within Built-Up Area Boundaries that meet all other Development Management criteria such as overlooking, over bearing, access etc, are in accordance with the adopted policies of the HDPF and can therefore come forward for development.

Question 4.

If the secondary settlement proposals become HDC policy, will the smaller communities, particularly in the rural areas, be swamped with new homes even though they may not be part of Neighbourhood Plans.

Answer:

No, the proposed policy in the Local Plan Review Consultation document said that any sites within a Secondary Settlement would only be acceptable if the site is small; the proposal is limited in scale to reflect the existing character of

the settlement and the development does not result in a significant increase in activity including traffic movements on narrow and rural roads.

Question 5.

If Gypsy and Traveller sites are required across the district, why are these not incorporated within the local Neighbourhood Plans.

Answer:

We encourage neighbourhood Plan Steering Groups to look at potential for all land uses in the preparation of their plans. To date, there have been no proposals for Gypsy and Traveller use by any Parish.

Question 6.

a) Over the last three years has there been an increase in the number of complaints to HDC with regard to breaches of planning regulations?

b) For this period what is the percentage of complaints that have been upheld?

c) For this period how many Enforcement Notices have been issued and what percentage have been appealed against and how many have been successful.

Answer:

a)

- *In 2016, 569 complaints were received by the Planning Compliance Team;*
- *In 2017, 589 complaints were received by the Planning Compliance Team;*
- *So far in 2018, 466 complaints have been received by the Planning Compliance Team (the projected overall number of complaints received for 2018 could be 629- based upon the figure of 163 files received between beginning of Sept and end of Dec last year).*

Therefore, yes, there has been an increase in the number of complaints made to Horsham District Council with regard to alleged breaches of planning control over the last three years.

b) *For this period what is the percentage of complaints that have been upheld?*

- *In 2016, 317 of the complaints received were founded ie a breach of planning control was identified, which equates to 56% of the complaints received;*
- *In 2017, 334 of the complaints received were founded ie a breach of planning control was identified, which equates to 57% of the complaints received;*
- *So far in 2018, 335 of the complaints received were founded ie a breach of planning control was identified, which equates to 72% of the complaints received.*

c)

- *In 2016, 14 enforcement notices were issued, of which 8 were appealed (57% of Notices)- all 8 appeals were dismissed ie were successful from HDC's perspective (100% success);*
- *In 2017, 13 enforcement notices were issued, of which 7 were appealed (54% of Notices)- so far, 4 appeals have been dismissed, and the decision on 3 appeals remains pending (100% success);*
- *So far in 2018, 14 enforcement notices have been issued, of which 9 have been appealed- the decision on all these appeals remains pending.*

Therefore, for the period 2016, 2017 and so far in 2018, 41 enforcement notices have been issued, of which 24 have been appealed (60%)- of the appeals determined, all were dismissed (100% success).

The Committee was invited to submit supplementary questions.
The following questions were asked of the Cabinet Member:

Could the Cabinet Member provide a rough guide of the number of affordable houses that were expected in the excess of 1000 houses being built between April 2017 to March 2018, and could a breakdown of the different types of affordable houses also be provided?

Regarding one particular case, enforcement had not taken place after 18 years which had led to lawful occupation, this had caused frustration for the local Member. The Cabinet Member would follow this up with the compliance team.

Regarding enforcement complaints, in 2016, 317 valid complaints were received and were 14 of those had been issued with enforcement notices, Members questioned what had happened to the outstanding 303 and was there a pattern with regular offenders?

The Cabinet Member noted the questions and answers would be provided following the meeting.

The Chairman thanked the Cabinet Member for attending the meeting and the Cabinet Member invited the Committee to submit any further question outside the meeting.

SO/29 **REPORT ON THE COUNCIL'S CORPORATE PLAN PRIORITIES, FINANCE AND PERFORMANCE Q1 2018/19**

The Director of Corporate Resources presented the Report on the Council's Corporate Plan Priorities, Finance and Performance in 2018/19 for quarter one.

The Director provided a brief update on the report.

The Committee were informed of a slight projected overspend, which was fairly normal for the first quarter, Members were informed that with the changes resulting from the introduction of the Homelessness Reduction Act numbers of households in Bed and Breakfast had gone up, and were continuing to rise.

Officers would monitor this closely to try and offset any overspend at the year end.

Members noted that West Sussex County Council's proposed cuts to in-house services could have a considerable impact on Horsham District Council. The Council were exploring the best type of homeless accommodation and officers would be making an effort to keep people out of Bed and Breakfast.

As a result of the Act, the Council were having to help house people that previously it would not have had a duty to help. This may have caused a spike in the figures. The changes proposed by the County Council could make more people unintentionally homeless and the District Council had a duty to help these. As a result of the nature of homelessness the officers have to make an estimate in terms of figures and would be unable to know the exact cost until things have settled down.

If the Committee requested further, more detailed explanation, it was suggested that they invite the Head of Housing to a future meeting.

The Director of Corporate Resources confirmed that the opening of The Bridge at Broadbridge Heath was on time and on budget.

Members questioned the Capital Outturn Forecast, the full year spend was 30% down on the budgeted figure. The Director reassured the Committee that all senior officers have asked their teams again to be accurate about their spend and when it was actually going to happen, to ensure more accurate budgeting.

The Chairman reminded Members to submit their questions based on the information in the Report, in advance of the meeting, for a full answer to be prepared by the officers.

SO/30 **TASK AND FINISH GROUP UPDATES**

SO/31 **FINAL REPORT OF THE REVIEW OF COUNCILLORS' TECHNOLOGY TASK AND FINISH GROUP**

The final report of the Review of Councillor's Technology Task and Finish Group was presented to the Committee.

The Group had been asked to review the technology needs of the Councillors' to enable them to carry out their duties effectively and efficiently.

The Committee noted the report and recommendations.

The recommendations were approved.

RECOMMENDED TO THE CABINET MEMBER FOR FINANCE AND ASSETS

1. That all Councillor held iPads be upgraded or replaced, if applicable, by a more suitable hardware and compatible software, that is appropriate and that allows enhanced functionality, i.e. Office 365.
2. That Councillors should be enabled to use their own equipment i.e. laptops, smart phones, computers, or own iPad, if they wish to do so. The Council will help ensure adherence to GDPR guidelines, and ensure security of Council data by the IT department checking the equipment for suitability. If it is suitable, the equipment will need to be configured by IT to provide access to a corporate 'container'. Council data will then be secure.
3. A training plan should be devised, then delivered soon after the 2019 elections to ensure that all Councillors have an opportunity to get the best out of their Council devices and from any container facility on their own devices. On going training would then be necessary.
4. Further investigation is required into aiding Councillors to be able to print from their iPads within Parkside.

SO/32 **ENGAGEMENT OF SCRUTINY IN COUNCIL ACTIVITIES TASK AND FINISH GROUP**

The Chairman of the Engagement of Overview and Scrutiny Task and Finish Group provided an update following the first meeting.

Discussions at the first meeting had leant towards the reinstatement of three standing working groups or sub-committees to encompass finance and performance, community (to include health and crime and disorder matters) and business improvement. Whilst the task and finish groups would be maintained.

The Group would be meeting again on 25th September and following that, the Group was hoping to produce a final report and recommendations.

SO/33 **ASSESSMENT OF THE LGA EFFECTIVE SCRUTINY TRAINING WORKSHOP FOR COMMITTEE MEMBERS ON 16/08/18**

The Committee received the presentation from the LGA training workshop on Effective Scrutiny.

The Chairman commented that the training session had been positive and Members were reminded of a key point arising from the workshop, that the Committee could look at matters outside of the Council's activities.

SO/34 **ADVICE ON WORK PROGRAMME SUGGESTION ABOUT VIABILITY REPORTS**

Two members of the public spoke in relation to this item.

The Chief Executive presented his report on Advice on Work Programme Suggestion about Viability Reports. The Report was prepared in response to a work programme suggestion on viability reports following concerns raised by a member of the public. The Committee requested technical advice on how to respond to the work programme suggestion from the Chief Executive and the Monitoring Officer. The Chief Executive had provided the facts in order for the Committee to make an informed decision on the suggestion submitted.

The Chief Executive referred the Committee to page 86 of the Report which set out the Information Commissioner's Office (ICO's) conditions for commercial confidentiality to apply. The Commissioner had concluded that the third condition had not been fulfilled and therefore the Council was instructed to release the information.

The Committee was also referred to paragraph 2.8 in the Report which highlighted the Commissioner's key findings.

Section 4.2 provided the Committee with a way forward to address the concerns raised by the member of the public, to enable the Committee to decide what to do with the work programme suggestion.

The Committee heard the concerns of the members of the public.

The Chairman welcomed the comprehensive report and opened the item up for discussion.

Members commented that report had highlighted errors in the way the Council acted and that the senior officers involved had now left the Council, so it was not practicable to ask them why they believed that the exemption applied. Lessons had been learnt and the Members felt nothing more could be achieved at this stage. The Committee felt total openness was guaranteed as a result of this decision.

The new NPPF would provide a template on the information which should be provided by developers in the future. This guidance would be available for Councils in November 2018 and will provide guidelines for officers and Councillors on how to deal with viability rules and planning applications going forward. This framework would also detail any exceptional circumstances.

The Committee noted that the default position going forward would be for public disclosure of information, with the prescribed format, and it would not for the Council to seek advice from the developer on whether or not the information should be disclosed.

The Chairman concluded that the Committee accepted the report.

RESOLVED

That the findings of (1) Information Commissioner's Decision Notice FER0690402 and (2) Planning Policy Guidance published by Ministry of Housing Communities and Local Government on 24th July 2018 in respect of publishing viability assessments, be noted.

SO/35 **UPDATE ON THE VIABILITY FRAMEWORK INCLUDED IN THE REVISED NPPF**

The Committee accepted the update on the Viability Framework included in the Revised NPPF.

SO/36 **WORK PROGRAMME 2018/19**

Two members of the public spoke on this item.

There were two concerns arising from the statements made by the members of the public. A work programme suggestion which had previously been submitted and the subject of this request.

The Committee noted that Councillor O'Connell had previously met with the Director of Planning and the officers from the Strategic Planning team who would provide him with monthly updates on S106 agreements and these were then fed back into the Committee. The Member was keen to see these meetings reinstated.

The Chairman concluded that the Committee agreed to accept the statements made by the members of public and the Chairman would liaise with the Director of Place to provide comments by the next meeting of the Committee.

Secondly, the Chairman hoped that the on going review of S106 would be addressed by the current task and finish group – Engagement of Overview and Scrutiny, the Chairman felt that this was an item which should be brought back onto the Committee's agenda.

The Committee supported the reinstatement of the regular s106 update meetings.

The Committee noted the current work programme.

SO/37 **URGENT BUSINESS**

None.

SO/38 **EXCLUSION OF PRESS AND PUBLIC**

The Chairman excluded the press and public on the following grounds:

Exempt by virtue of Paragraph 1,2 and 3 of Part 1 of Schedule 12A to the Local Government Act 1972 – (1) Information relating to any individual, (2) Information which is likely to reveal the identity of an individual, (3) Information relating to the financial or business affairs of any particular person (including the authority holding that information)

SO/39 **DRAFT REPORT OF THE CENSUS REVENUES AND BENEFITS TASK AND FINISH GROUP**

The draft report of the Census Revenues and Benefits Task and Finish Group was presented to the Committee.

The Chairman of the Task and Finish Group explained that Group had since received comments on the report by various senior officers, former and present, as well as officers at Mid-Sussex District Council. It had also been sent to the Cabinet Members who were members of the Census Joint Committee.

All comments had been considered and incorporated, where appropriate. An updated version of the report was circulated at the Committee meeting.

The Task and Finish Group would consider (in an informal setting as the Group had been formally closed at the last meeting of the Committee) and approve a final version of the report which would be officially presented to the Committee at its next meeting on 26th November 2018.

The meeting closed at 7.32 pm having commenced at 5.30 pm

CHAIRMAN