

**SCRUTINY COMMITTEE held at COMMITTEE ROOM - COUNCIL OFFICES,
LONDON ROAD, SAFFRON WALDEN, ESSEX CB11 4ER, on TUESDAY, 24
SEPTEMBER 2019 at 7.30 pm**

Present: Councillor N Gregory (Chair)
Councillors M Caton, A Coote, C Criscione, G Driscoll, J Evans,
G LeCount, N Reeve and G Sell

Officers in attendance: R Auty (Assistant Director - Corporate Services), A Bochel
(Democratic Services Officer), D French (Chief Executive),
R Harborough (Director - Public Services) and A Webb (Director
- Finance and Corporate Services)

Also present: Councillors J Lodge (Leader of the Council) and P Lees (Deputy
Leader of the Council)
Public speaker: C Fiddy (Saffron Walden Town Council)

SC13 PUBLIC SPEAKING

Chloe Fiddy spoke on Item 7. *A summary of this statement is appended to these minutes.*

SC14 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillor Jones.

SC15 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting on 25 June were signed and approved as a correct record, subject to Councillor Sell's apologies being noted.

**SC16 CONSIDERATION OF ANY MATTER REFERRED TO THE COMMITTEE IN
RELATION TO CALL IN OF A DECISION**

In response to a Member question, the Chair said that he had approved the addition of key decisions on the Commercial Strategy and a Loan to Aspire to the Cabinet agenda.

The Director – Finance and Corporate Services said Cabinet would debate the investment opportunity and could choose whether to recommend it to Council or not. Council would then decide whether or not to invest. Members of the Investment Steering Group had been kept informed throughout the process.

The Chair proposed that Councillor Fairhurst, Portfolio Holder for Business, Economy, Jobs, Investment and Strategy; Youth Services, be asked to attend the next meeting of the Committee.

Councillor Caton expressed concern about the informality of the process for making a decision on the investment. The Investment Steering Group had not been formally convened, and leaders of the political groups had not been consulted about who the members of the Group would be. He was concerned that the Scrutiny Committee's part in the process had not been thought through.

The Leader of the Council said not consulting group leaders on membership had been a mistake. He said in the future there would be more opportunity for consultation.

The Director – Finance and Corporate Services apologised that the Committee had not been able to scrutinise the mid-year review of the Commercial Strategy. While the Committee always got the opportunity to see the annual review, this was the first time there had been a mid-year review. Such reviews would be brought before the Committee in the future.

Councillor Sell suggested that in the future there could be a standing item on the activities of the Investment Steering Group.

SC17 **CABINET FORWARD PLAN**

Members noted the Cabinet Forward Plan.

SC18 **SCRUTINY WORK PROGRAMME 2019-20**

Councillor Caton proposed that a task group be set up to consider the issue of airport flyparking. Councillors Driscoll and LeCount volunteered to sit on this group.

SC19 **PLANNING OBLIGATIONS AND CONDITIONS TASK AND FINISH GROUP UPDATE**

Councillor Evans summarised the task group's work so far, and circulated notes to this effect. It was the group's intention to submit a written report in November and a further oral report in December. The group hoped to learn lessons from the past and positively apply them in the future.

The group had informally met with two officers so far. It was their intention to meet with a range of other parties, including district councillors, town and parish councillors, and potentially lawyers and development companies.

Councillor Coote declared a non-pecuniary personal interest as a member of Saffron Walden Town Council.

The group was going to research to possibility of using the Community Infrastructure Levy (CIL) or a S106/CIL hybrid model for planning applications. It would then be necessary to prepare a schedule, and this would be followed by an examination to ensure that the proposed levy charges were justified and would not undermine the viability of development.

The Director – Public Services said that officers had already commenced the process of commissioning consultants to prepare a CIL charging scheme and were in the process of considering bids. He would check whether the specification had specifically included examining a hybrid approach.

Members discussed the possibility of town and parish councils taking over public spaces, noting that the cost of maintenance would not endear this idea to residents.

The Director – Public Services said he was surprised by aspects of the notes that had been circulated, and said that they might contain factual inaccuracies. The Council did have an electronic system for storing records of S106 agreements, and the Council's approach to enforcing these was always started with voluntary compliance but had ultimately included injunctive action.

Councillor Evans confirmed the group had received the necessary support when they requested it.

A copy of the notes circulated by Councillor Evans are appended to these minutes.

SC20 **MAJOR PLANNING APPLICATIONS REVIEW UPDATE**

The Assistant Director – Corporate Services said he had been in touch with the Planning Advisory Service, and he was due to have a meeting with representatives of the service and the Assistant Director – Planning in October.

Councillor LeCount, the Chair of the Major Planning Applications Task Group, said it was necessary to wait until the Planning Advisory Service had completed its review before the task group could begin its work.

SC21 **REFERRAL FROM CABINET REGARDING AECOM ENGAGEMENT**

The Chair opened the discussion by stating the next three items, while being dealt with individually, were of a similar theme and that there was a perception in some quarters that the Council had not always acted as openly and truthfully as might be wished and whether there were therefore issues of trust that might need to be resolved.

He gave a summary of the report. Cabinet had referred a matter to the Scrutiny Committee relating to the engagement of AECOM to review the Local Plan Sustainability Appraisal. The Chair had proposed a note to Cabinet following correspondence and a meeting which took place over the summer. This note

summarised that there had been a failure to fully inform Members and the public of the potential challenges to the Sustainability Appraisal and proposed remedial action. This was due to an unintentional oversight by an officer. Measures were now in place that should preclude a repetition.

The Chair said the report raised the concern that the Council had not always been as transparent as it should be.

There was general agreement that there was no point in digging into an issue which had already been investigated and that the new administration should be looking to the future, and should be careful not to make similar mistakes.

RESOLVED to refer the report by the Chair of Scrutiny Committee to Cabinet.

SC22 **PROBITY IN PLANNING**

The Chair said he had been asked, as the Chair of the Scrutiny Committee, to investigate concerns raised by Brian Ross, Stop Stansted Expansion, with regard to the handling of the Stansted Airport expansion application. The Chair said there were not any issues that needed to be drilled into, but that the experience could be taken as a learning point for the future.

Members noted that if there were issues of best practice that had arisen, these could be incorporated into the report of the Major Planning Applications Task and Finish Group.

The Director – Public Services noted that the Probity in Planning protocols needed to be updated but that it was important for the Council's small legal team to prioritise its work. Compliance with the current protocol in the Constitution would continue to ensure that members did not breach the law.

SC23 **DISCUSSION WITH CHIEF EXECUTIVE AND DIRECTORS**

The Chair opened the discussion by asking if there was an inherent cloudiness in some documentation which caused uncertainty for some individuals.

The Chief Executive said that Probity in Planning as spelt out in the Constitution was clear and went further than the Act required. If Members now wanted to review that then it could be scheduled although she could not commit to a timetable.

Members and officers discussed more generally that there was a perception of a lack of trust between councillors and officers. This was an issue of concern, and it was important to consider why there was a deficit of trust between the two. Referring to an earlier comment about truthfulness, the Chief Executive said that if any member had evidence of officers being untruthful, that was a very serious allegation and needed to be raised as part of the Council's protocols. With regard to the perceptions around trust, she said the trust that members had in

officers was not to the same standard as she had experienced in other councils, nor as had been the case historically at Uttlesford.

Members noted that they and officers had to work together to address another issue of a perception of lack of trust that the public had in the Council. The issue of trust was not unique to Uttlesford and was applicable throughout the country.

Members said the new administration had an opportunity to wipe the slate clean. Processes at Uttlesford were robust, so it was possibly a matter of the culture of the organisation. There was only so long that the past should be dwelt on, and it was for every councillor and officer to look to change the culture. This would come when the new administration had settled in.

The Chief Executive said it was important to be open and honest with each other. If any councillor was concerned, they should make this known.

The Chair said there were many aspects of work which the Council did superlatively.

The meeting ended at 9.25.

Minute Item 1

Summary of Statement by C Fiddy:

Saffron Walden Town Council had sent a report to Councillor Evans for information for the work of the Planning Obligations and Conditions Task Group. Saffron Walden Town Council was happy to assist further if required.

UDC SCRUTINY COMMITTEE

(TASK & FINISH GROUP RE PLANNING CONTRIBUTIONS)

24 SEPTEMBER 2019

BRIEF PRELIMINARY NOTES FROM CLLRS EVANS, CRISCIONE AND JONES

- Witnesses (to date):
 - Introductory Meetings held with Nigel Brown and Elizabeth Smith to hear of their role in and to discuss their view as to effectiveness of s 106 Agreements. Following emerged (preliminary):
 - shortage of experienced staff (both functions)
 - very limited coordination/cross involvement of two disciplines (legal would like more), particularly at heads of terms/negotiation stage
 - legal department would welcome greater involvement if additional resources available (estimated time of 3.5 hours on s 106 and 1.5 hours on deeds of variation only per transaction)
 - legal has licensing functions and land charges
 - limited interconnection with ECC
- Document Keeping
 - Schedule of s 106 Agreements and contributions made are held in a word spreadsheet available under FOI request
 - Member of staff hired to regulate s106 agreements
 - not updated historically
 - resources currently available
 - no e linkages to allow drill down to s 106/278 and status of compliance/enforcement (ECC have a system which allows them to chase/collect)
 - s 106 Agreements are kept in hard copy in vaults (no e filing)
- CIL: tariff preferred for administration/ease of collection
 - research to be undertaken
 - hybrid route?
- Enforcement
 - no legal steps have ever been taken by UDC such as mandatory injunctions in connection with enforcement
 - research as to means of effective enforcement/teeth (economically)
- Consultation at UDC
 - SWTC submission very helpful
 - Ask GDTC same
 - Questionnaire for each Ward/PC; or selective (say 10)?
- Further Witnesses
 - UDC re funds recovered/not recovered/returned
 - ECC Education and Transport and use of funds/returned
 - NHS/health
 - Cambs re CIL and experience

- Specialist commentary re suitability of s 106 agreements re open space/play area/planting and maintenance/cost endowment (once it was 20 years – now 10 years)
- TCs/PCs willingness to “take over” open space (reluctance where SUDS/swales)
- Interview a number of development companies in respect of their experience
- Discussion with senior planning lawyer regarding regular mistakes and pitfalls for local planning authorities
- Scrutiny Committee
 - Comments made that SC should be more proactive in working with Planning Committee?
- Legal and other Obligations
 - Numerical dwellings/temporal triggers (blend?)
 - Are the obligations drafted/enforceable (joint and several) where sites split (SW Tesco site and care home lapsed?)
 - Review boilerplate
 - Standard text is not varied except with approval of legal department
 - Planning Performance Agreements exist with major developers (eg Bloor/Bellway). How do these impact?