

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE OVERVIEW AND SCRUTINY BOARD

17TH JANUARY 2023, AT 6.00 P.M.

PRESENT: Councillors C.A. Hotham (Chairman), J. Till (Vice-Chairman), S. J. Baxter, A. J. B. Beaumont, S. R. Colella, R. J. Hunter, A. D. Kriss and C. J. Spencer.

Observers: Councillor Karen May (Leader of the Council), Councillor Geoff Denaro (Deputy Leader and Portfolio Holder for Finance and Governance) – (on Microsoft Teams)

Officers: Mr. K. Dicks, Mr P. Carpenter, Mrs. R. Bamford (on Microsoft Teams), Mr. M. Cox, Mr O. Paparega and Mr M. Austin (on Microsoft Teams), Ms. N. Chowdhury (on Microsoft Teams), Mrs. J. Newbon (on Microsoft Teams), Mr. C. Phillips (on Microsoft Teams) and Mr. M. Sliwinski.

57/22

APOLOGIES FOR ABSENCE AND NAMED SUBSTITUTES

Apologies for absence were received from Councillors R. Deeming and H. Jones.

58/22

DECLARATIONS OF INTEREST AND WHIPPING ARRANGEMENTS

There were no declarations of interest nor any whipping arrangements.

59/22

TO CONFIRM THE ACCURACY OF THE MINUTES OF THE MEETING OF THE OVERVIEW AND SCRUTINY BOARD HELD ON 21 NOVEMBER 2022

The minutes of the Overview and Scrutiny Board meeting held on 21st November 2022 were submitted for Members' consideration.

RESOLVED that the minutes of the Overview and Scrutiny Board meeting held on 21st November 2022 be approved as a true and correct record and signed by the Chairman.

60/22

PLANNING ENFORCEMENT UPDATE

The Technical Services Manager for Worcestershire Regulatory Services (WRS) presented a report on planning enforcement and in doing so highlighted that in making planning conditions on a planning permission, local planning authorities should be mindful of paragraph 55 of the National Planning Policy Framework (NPPF) which makes clear

that any planning conditions should be enforceable, precise, and reasonable.

The Technical Services Manager noted that the most desirable outcome in taking any measure of enforcement action was compliance by the offender within an acceptable timeframe. When there was a breach of planning conditions, the enforcement action taken on the part of the local planning authority was proportionate to the severity of the breach in question and a staged approach was adopted towards ensuring compliance, whereby a number of warning letters would be issued to the applicant, and if this did not lead to resolution, formal enforcement action would be taken, starting with Enforcement Notices (including Stop Notices) and prosecution or injunction if no compliance had been secured.

The Technical Services Manager advised Members of a typographical error in the table at paragraph 3.2 of the report in respect of the figure for the number of prosecutions or injunctions in 2021-22 that would be corrected.

Following the presentation, Members discussed the contents of the report, and the following was noted:

- It was highlighted that whilst Officers aimed to respond to any breaches of planning enforcement legislation in a timely manner, ideally on the same day, enforcement in relation to planning policy breaches was a discretionary function, and due to limited resources, the response timescales depended on the seriousness of the breach in question, with most serious breaches being prioritised.
- Members asked about the number of cases that had been closed during the 2021-22 municipal year through to 10 November 2022 and Officers undertook to compile and distribute this information to Members.
- It was explained that planning conditions had a primary purpose of making an otherwise unacceptable proposal acceptable in planning terms. Officers noted that breaches of conditions were managed through notices and a proportionate approach was adopted to dealing with casework.
- It was asked what civil enforcement parking powers were available to Civil Enforcement Officers (CEOs) with regards to parking and whether the Council's CEOs had the authority to deal with issues such as unlit skips left on public highways. Officers explained that CEOs only had very specific powers in the area of parking enforcement. Officers undertook to provide Members with a response outlining a full list of the CEO enforcement powers.
- The Board was advised that unlit skips on highways were a County Council matter as the County was the responsible authority for public highways.
- In terms of minimum standards, it was noted that the Council was bound by national targets for processing planning applications

within the statutory determination period, which was 8 weeks for non-major development applications and 13 weeks for applications for major developments. There were consequences for the local planning authority if the percentage thresholds for meeting the statutory determination period were not met (which were a minimum of 60 per cent of applications for major developments, and 70 per cent for non-major, to be determined within the statutory determination period).

- For planning enforcement there were no comparable minimum standards, although the authority would monitor its standards. It was noted that the Council was working with WRS on updating the joint enforcement concordat to set out the standards that could be expected in planning enforcement. It was underlined that the main issue was understanding what resource was required to deliver timely services in the context of limited budget availability.
- It was noted that the enforcement powers available to the local planning authority included authorising named officers with the rights of entry to land specifically for planning purposes, and also other enforcement tools such as the use of drones for monitoring. It was noted, however, that there was a host of complications with using monitoring tools and the need for such tools needed to be clearly evidenced.
- Officers were asked if the use of WRS Officers for the Council's enforcement work resulted in taking those WRS staff from their other duties. In response, Officers stated that WRS Officers were skilled in enforcement from their work across the enforcement spectrum (environmental health, licensing) and had experience of injunctions and as such it was advantageous for both the Council and WRS to utilise these enforcement officers in the planning enforcement work.
- It was stated that WRS had members of staff who were previously employed for undertaking contact tracing and Covid advisor roles and these officers had been trained and were now undertaking the planning enforcement duties for WRS.
- Members requested information about the number of planning enforcement cases that were closed in the period of 2021-22 and up to 10 November 2022, and Officers undertook to provide this information.

RESOLVED that the Planning Enforcement Update be noted.

61/22

FINANCE AND BUDGET WORKING GROUP - UPDATE

The Chief Executive introduced the item and reported that the Chairman of the Overview and Scrutiny Board had received a request for a vacancy on the Finance and Budget Working Group to be filled by an elected member who did not sit on the 'parent' Overview and Scrutiny Board and was not a Cabinet Member.

It was explained that under the legislation non- Overview and Scrutiny elected members (who were also not members of the Cabinet) were not

precluded from joining any of the working or task groups that had been set up by the parent Overview and Scrutiny Board. It was noted, however, that at the time this report was produced other Members of the Overview and Scrutiny 'pool' who did not sit on the parent Overview and Scrutiny Board had not been consulted about this vacancy.

It was further noted that under Section 15(5)(c) of the Local Government and Housing Act 1989, the political balance rules, in terms of the appointment of Members to Committees to reflect the authority's political balance, applied to "ordinary committees", or formal committees such as the Planning Committee. Working Groups, scrutiny Task Groups and advisory panels were not classified as ordinary committees and the political balance rules did not need to apply.

Following the presentation Members deliberated on the proposal and the majority of Members present expressed the opinion that membership of the Finance and Budget Working Group should be restricted to a sub-group of members of the Overview and Scrutiny Board unless this option had been exhausted and a long-term vacancy had been identified which necessitated a wider membership of the Overview and Scrutiny 'pool' to join the Working Group.

It was suggested that the Terms of Reference should also be amended to enable the Chairman of the Audit, Standards and Governance Committee to be allocated a place on the Working Group. It was reasoned that this member would add the necessary expertise and value to the work of the Finance and Budget Working Group.

It was agreed that the Terms of Reference of the Finance and Budget Working Group should be amended to the effect stated in the above preamble and that these amendments should be applied from the beginning of the municipal year 2023-24.

RESOLVED that the following amendments be inserted to the Terms of Reference of the Finance and Budget Scrutiny Working Group, which should apply from the start of the 2023-24 municipal year:

- 1) The Working Group shall comprise 7 Members, to be made up of 6 Members (who are Members of the Overview and Scrutiny Board) plus the Chairman of the Audit, Standards and Governance Committee.
- 2) Should a vacant post remain after Members of the Overview and Scrutiny Board had been approached, members of the Overview and Scrutiny "pool" (i.e. those who do not sit on the Overview and Scrutiny Board and are not Cabinet Members) may be appointed to fill the vacancy.

Councillor S. Baxter, the Council's representative on the Worcestershire Health Overview and Scrutiny Committee (HOSC) reported that two meetings of the Committee had taken place since the last update, on 1st December 2022 and 13th January 2023 respectively.

Councillor S. Baxter reported that on 1st December Members of the Worcestershire HOSC had a tour of the Emergency Department at the Worcestershire Royal Hospital, which was being redeveloped and expanded. It was commented that this redevelopment was positive news for residents living in the south of Worcestershire. However, it was still a considerable journey to this hospital for residents living in the northern districts of Worcestershire.

The rest of the HOSC meeting on 1st December, it was reported, had been taken up with discussion of ambulance delays and patient flow. Councillor S. Baxter reported that it was highlighted at the HOSC meeting that increased staffing was what would make the biggest difference to the Worcestershire Acute Hospitals Trust (the Acute Trust) and problems would remain until the staffing situation was resolved. A particular weakness with relevance to patient flow, it was reported, was the lack of consultants with expertise in care of the elderly and the problem was compounded by the fact that staff, especially those newly qualified staff, chose to work in hospitals where they would be part of a larger team.

With regards to the meeting of Worcestershire HOSC that took place on 13th January 2023, Councillor S. Baxter reported that the main issues discussed included the Public Health England (PHE) Ring Fenced Grant for the County Council and the item on health inequalities emerging from the Covid-19 pandemic.

Following the presentation, a discussion took place on the points raised and the following was noted:

- It was commented that Worcestershire Acute Hospitals Trust struggled to recruit consultants for various reasons with the proximity of the Queen Elizabeth Hospital in Birmingham being one of the factors.
- It was reported that actions were being taken by the Trust to facilitate safe patient discharge, including step down units to ensure patients were not released from hospital before they were ready.
- A problem with recruitment of nurses was highlighted, with a vacancy figure of 200 being reported. It was reported that there was an overseas recruitment drive in place, mainly from India, to fill some of these vacancies.
- It was highlighted that the new Emergency Department building was not funded as a private finance initiative (PFI) as public bodies were moving away from financing via PFI, and this was the case with this project.

RESOLVED that the Worcestershire Health Overview and Scrutiny Committee Update be noted.

63/22

CABINET WORK PROGRAMME

The Cabinet Work Programme was presented for Members' consideration.

RESOLVED that the contents of the Cabinet Work Programme be noted.

64/22

OVERVIEW AND SCRUTINY BOARD WORK PROGRAMME

The Board requested that an officer report be presented at the meeting on 13th March 2023 on the steps taken by the Bromsgrove District Housing Trust (BDHT) to tackle the issue of damp and condensation in the properties looked after by BDHT.

RESOLVED that, subject to the preamble above, the Overview and Scrutiny Board Work Programme be noted.

65/22

TO CONSIDER, AND IF CONSIDERED APPROPRIATE, TO PASS THE FOLLOWING RESOLUTION TO EXCLUDE THE PUBLIC FROM THE MEETING DURING THE CONSIDERATION OF ITEM(S) OF BUSINESS CONTAINING EXEMPT INFORMATION:-

RESOLVED: that under Section 100 I of the Local Government Act 1972, as amended, the public be excluded from the meeting during the consideration of the following item(s) of business on the grounds that it/they involve(s) the likely disclosure of exempt information as defined in Part I of scheme 12A to the Act, as amended, the relevant paragraph of that part, in each case, being as set out below and that it is in the public interest to do so:-

<u>Item No</u>	<u>Paragraph</u>
10	3

66/22

LEVELLING UP FUND UPDATE - PURCHASE OF WINDSOR STREET SITE AND FORMER MARKET HALL SITE

The Board received an operational update with respect to progress in the delivery of the Levelling Up Fund (LUF) projects (LUF0297) in Bromsgrove Town Centre. The update covered the period September 2022 – January 2023 for the two projects taking place at Windsor Street and the former Market Hall site.

The Board was first updated on the Windsor Street Site (former Fire Station at Windsor Street). The Programme Delivery Manager for the projects reported that in October 2022 a positive response was received from the Environment Agency (EA) to the proposed remediation strategy. The EA provided approval in terms of the approach and remedial target values proposed for the soil and groundwater and gave a

green light to proceed with the preparation of a remediation specification and monitoring plan.

It was reported that the draft remediation specification and monitoring plan had been completed and would be reviewed by both the Council and North Worcestershire Economic Development and Regeneration (NWEDR) before it was submitted to the EA.

With regards to procurement of a suitable remediation contractor for the site, it was reported that the duration of soft market testing was extended following agreement from the Programme Board as two of the procurement frameworks approached, the Crown Commercial Services (CCS) and the Procure Partnership Frameworks, were deemed unsuitable due to concerns regarding the risk that there would be an inadequate number of returns following the tendering process.

The decision was thus taken to issue an expression of interest (EOI) to the Pagabo framework with a request that a reserve list of suppliers be made available to increase the overall pool of contractors. The project team was awaiting a response regarding this. It was explained that the tender process had been paused for the moment and would be extended by two weeks to enable contractors to have sufficient time to submit their EOIs. It was highlighted that this did not impact on the project timescales and it was expected that the contractor would be appointed in February 2023 and planning permission for the site secured in April 2023.

It was clarified that the project would proceed with two procurement frameworks going forward, the Pagabo framework and the Consortium Procurement Construction (CPC) framework.

The Board was then updated on the Former Market Hall project and Members were informed that following procurement in November 2023, One Creative Ltd were successful at the tender stage and would be appointed as the project's technical adviser and cost consultant.

The RIBA stage two closed in December 2022 with the brief for the design team including proposals for the Main Building to be a mix of open plan office spaces and adaptable workspaces with food and beverage provided on the ground floor and proposals for the Pavilion Building to provide a two-storey pavilion-style building with a covered area to perform as a market square and the ground floor to be adaptable to hosting a range of community events and festivals.

It was noted that following the next stages of RIBA and the assessment of the design team and the technical advisor, the specific designs and costs for the project might need to be revised. However, it was highlighted that there would be an extensive period of consultation with Elected Members before a planning application for the site was submitted.

Following the operational update, the Board received an update in respect of the financial implications of the Levelling Up Fund (LUF) projects at Windsor Street (Former Fire Station) and Former Market Hall sites.

[The meeting was adjourned between 7.41 pm and 7.48pm]

(During the consideration of this item, Members discussed matters that necessitated the disclosure of exempt information. It was therefore agreed to move to exclude the press and public prior to any debate on the grounds that information would be revealed which related to the financial and business affairs of any particular person (including the authority holding that information)).

The meeting closed at 8.46 p.m.

Chairman