



Minutes

ENVIRONMENT, TRANSPORT AND LOCALITY SERVICES SELECT COMMITTEE

MINUTES OF THE ENVIRONMENT, TRANSPORT AND LOCALITY SERVICES SELECT COMMITTEE HELD ON WEDNESDAY 6 NOVEMBER 2013, IN MEZZANINE ROOM 2, COUNTY HALL, AYLESBURY, COMMENCING AT 2.00 PM AND CONCLUDING AT 3.55 PM.

MEMBERS PRESENT

Mr W Chapple OBE, Mr D Dhillon, Mr P Gomm, Mr S Lambert and Mr W Whyte (Chairman)

OTHERS IN ATTENDANCE

Mr S Chainani, Ms S Griffin (Secretary), Mr J Rippon and Ms K Wager

1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Bill Chapple, Tim Butcher and David Carroll.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 MINUTES

The minutes of the meeting held on the Wednesday 25 September 2013 were agreed as a correct record.

Matters Arising

Page 2 - Environmental Response – Green Deal

Alex Care has advised that the Secretary of State has made the following statement about the Community Interest Green Deal.



INVESTOR IN PEOPLE



'The Green Deal together with the Community Trust Company received Green Deal provider status from the Secretary of State in September. The delay to the programme will mean the offer to domestic customers will launch in early 2014'

There is still an outstanding issue around the resources that Bucks County Council will put into this. Clarification will be obtained for the next meeting.

Action: Kama Wager

Page 3 - Environmental Response – Sustainable Travel Scheme

Clarification is to be obtained if BCC have submitted a bid to the Local Partnership Enterprise Partnership for EU funding.

Action: John Lamb/Jim Simms

The Chairman advised the Tim Butcher has offered to join an informal workshop to discuss EU bids and funding with the relevant officers in early December. Members of the Committee are welcome to part in the discussions.

An update on progression of opportunities for sourcing funding from EU, other grants and external funding is to be provided.

Action: John Lamb

An update on bids made by BCC for EU funding is to be provided.

Action: John Lamb

Addendum – the Chairman has been advised that a full bid has been submitted but the details of details of the bid have not seen. Clarification is to be obtained.

Action: Kama Wager

Page 4 – Cabinet Response – TfB (Ringway Jacobs Contract)

The 2011 Scrutiny review recommended having two extra spokesmen for transport on the Strategic Board to provide wider member representation. The Cabinet Spokesmen's roles have ceased to exist in the new Terms of Reference. The Cabinet Member now has a Deputy who can deputise for them if they are unable to attend a meeting. This will be picked up in the review work as it was seen as an important or necessary measure in enhancing member representation on the Board. Janet Blake provides member representation on the Board.

Action: Committee Members

Page 5 – the minutes of the Strategic Management Board are to be circulated to Committee Members.

Action: John Lamb

Page 10 – Customer Focus Project

Statistics report to circulated to Committee Members.

Action: Kama Wager

The report is to be discussed (trends, and specific points/data to be captured) at the next meeting of the Working Group.

Page 11 – Efficiency Savings

An update on efficiencies made over the last 12 months was tabled at the Working Group meeting on 16 October.

Page 13 - Grass Cutting update

A written response of the statutory requirements of the products that can be used for weed spraying and the weed spraying programme are to be provided.

Action: Sean Rooney

Clarification of the legislation and statutory requirements for hedge cutting and grass cutting on the highways is to be obtained.

Action: Ruth Vigor-Hedderly

Page 14

The summary of findings report being compiled for Cabinet is to be sent to Committee Members.

Action: Ruth Vigor-Hedderly

4 PUBLIC QUESTIONS

There were no public questions.

5 CHAIRMAN'S REPORT

The Chairman explained that several Working Group meetings have taken place since the last meeting of the Environment, Transport and Locality Services Select Committee.

The KPI process has been discussed at length. Work is taking place to draw together the strands that have emerged from these meetings.

The Chairman introduced Mr Bob Cook who has appointed to the Client Team. Mr Cook explained that he has worked in the industry for 35 years which includes 25 years at Essex County Council. Mr Cook advised that part of his role is to look at the short term contracts to support highways and to drive through any issues with contracts.

6 SECTION 106 (TOWN AND COUNTRY PLANNING ACT)

The Chairman welcomed John Rippon and Stephen Chainani to the meeting.

Mr Rippon thanked the Committee for the invitation to attend the meeting.

Mr Rippon referred Members to the report included in the agenda pack which sets out the S106 process, the roles and responsibilities of the County Council, District Planning Authorities, and Education Authorities and a summary of financial contributions. The report also includes three recommendations for the Committee to consider.

The following key points were highlighted;

Section 106 refers to the Town and Country Planning Act which enables planning authorities to enter into agreements with developers to place planning obligations on developers to make developments acceptable i.e. the ability to mitigate the impact of the development of highways, education and other areas.

The planning obligations are placed as a charge on the land itself and are bound by the S106 Agreement, rather than the person or organisations that develop the land. This affects the commercial viability of the development of the site.

There are key criteria to be met within negotiations with the developers for mitigation measures. This is covered within the Community Infrastructure Levy regulations. As part of CIL Regulation 122, planning obligations must meet three new statutory tests from April 2010;

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development

Community infrastructure levy (CIL)

A number of measures within the CIL came into place in April 2010. These reforms restricted the use of planning obligations and clarified the relationship between planning obligations and the CIL. The levy is a new local charge that local authorities in England and Wales can choose to charge on new developments in their area to fund infrastructure.

The County Council is not the CIL collecting authority under the new scheme. This role falls to District Councils in two tier areas.

Roles and Responsibilities

The District Councils are primarily the lead authority for planning, master planning and local development plans. The County Council has a statutory obligation as a Highways and Education Authority. The District Council must consult the County Council about planning applications for schools, waste/minerals sites etc.

When a planning application is put forward, the quantum, type and locality of development are looked at to assess the impact in terms of highways and education. There is also liaison with the District Planning Authorities. It is in the interest of the County Council to engage early on in the process with developers and planning authorities. Once the planning application is submitted, there is a timetable to be worked to. There can be pressure to resolve significant issues in the time constraints.

The developer will submit an Environment Impact Assessment or transport assessment which sets out the impact of the development which the County Council will then assess.

If there is no objection to a development at the planning application stage, Heads of Terms for a Section 106 agreement are put together. This would include a summary of mitigate measures and triggers for payments.

S106 is a key consideration for the County Council in ensuring that appropriate levels of funding are secured from the development to mitigate the additional impact on service provision.

Work is on-going to look at the overall process, the journey of the S106 agreement from the pre-application stage to the commissioning and delivery to look at improving the effectiveness of monitoring via payment and triggers. This is ultimately fed into the delivery programmes for education and transport.

Work is taking place with education, legal and finance to ensure that there is a robust monitoring regime in place.

Next steps/recommendations

- To complete the redesign of the S106 process taking into account organisations changes and the loss of resources to ensure S106 agreements are effectively monitored and that S106 contributions are paid and committed to scheme delivery in line with BCC Capital Programme.
- To consider the creation of a new S106 Co-ordinator role within the Place Service, funded through the S106 monitoring fees, including a review of S106 monitoring fees and the brokering of internal agreements when viability constrains funding available.
- To develop a more effective communication strategy during the Pre-Application, Planning and S106 negotiation process to consult with Local Members and ensure that local concerns are ideas are being considered as part of the process.

During discussions, the following questions were asked;

Is the ALUTS (Aylesbury Land Use Transport Strategy) model still relevant and capable to today's design from a holistic point of view and how is the knowledge of Local Members used to inform the S106 process as there is some concern that Local Members are not always advised of a change of decision? ALUTS contributions are separate S106 funds that are collected directly by the District Council. ALUTS fall foul of the new SIL regulations and will therefore cease from April 2014. The CIL charging schedule will take its place. Any residual funds accrued within the ALUTS can potentially be drawn down over the next 2/3 years as bids are made for that work.

Is it correct that when S106 monies are received, these monies must be spent within 7 years? The sunset clause varies within agreements. Some contracts do not have a sunset clause. More often it is the case that the monies need to be spent within 5-10 years.

When S106 cease, are the monies the County Council have secure and do not have to be paid back to the developer? Mr Chainani explained that the work and those funds can be committed via the Capital Programme going forward. In terms of the S106 process within the CIL, a restriction in the number of S106 Agreements comes into place after April 2014 whereby only five contributions can be pooled together. This could create some issues as contributions could potentially be lost if they are not pooled together. However it looks as if this could be extended until April 2015. There is a clause in some agreements to say if the funds are committed, once the funding is received it can offset against what has been forwarded funded.

Mr Rippon explained that briefing note was issued last week in terms of keeping of Local Members and Cabinet Members in better informed in particular key decisions which could change the position of the County Council. A discussion of the development of a weekly briefing/update has taken place with the Management Team. Where there is a key decision which results in a change of the County Council's position, high level sign off from the Cabinet Member/Leader would be looked at.

The report advises that the commencement of the development and trigger points are not monitored by the County Council. This process is reliant on the developer. Will the new co-ordinator have this responsibility and be aware of what has been agreed with the developer? The new process is set out in the report included in the agenda pack. Business areas have been assigned certain responsibilities at different stages of the S106. There has been a process of change in Place Service during which the S106 co-ordinator's role was lost. In the absence of the role, the service did what could to try not to miss triggers and payments etc. Monies that were due by way of existing agreements have been received. The new process looks at sharing resources with Education, the transaction process with the developers and how this is reported back. All of the agreement information is being put together in one schedule to flag up when a trigger/payment is due.

Can the Committee be absolutely certain that the County Council has not missed any mitigation schemes being implemented or that the County Council has not lost any monies since the reorganisations? Mr Rippon that there have been some delays in the receipt of payments but as far as he is aware no payments have been missed. In recent agreements put in place, the triggers have been looked at to ensure that funds are received when they are due.

As part of the S106 agreement it is the responsibility of the County Council to claim outstanding monies. Is there any responsibility which comes down to the developer to pay any monies under the planning restrictions? In the S106 agreement, the developer has an obligation to notify the County Council when that payment is due. The onus is on the developer to come forward and notify the County Council and make the payment. This can be helped by the County Council be more proactive in the future.

When will the new process be put in place? Mr Chainani explained that the process has been started i.e. the logging of S106 agreements and trigger points onto a spreadsheet. There needs to be a discussion with District Council to try and put in place an agreement to notify the County Council when the trigger points are reached how this can be monitored.

Are Place services the right service area for the new co-ordinators role to be situated in the new operating model? The creation of the post is currently sitting with the Chief Officers Management Team. The need for high level interaction between respective service areas within the County Council has been recognised to ensure there are no conflicting/competing interests. The previous role was more transactional in terms of putting agreements in place, recording these formally and ensuring payments and triggers were responded to.

How can Committee members be convinced that as a result of the co-ordinator's post being abolished and reinstated, there have not been any missed opportunities and has this been measured in some way?

As part of the CIL only five items can be bid for. How are the five items clarified and how it is ensure that one part of the service does not get precedence over another?

There needs to be better partnership working with District Partners to ensure a holistic approach. How can this be ensured? The County Council are primarily led by the District Planning Authorities. There is engagement with transport and education around the litigation factors. Strategic models are produced and there is liaison with Local Members, user groups and TfB colleagues to try to build up a strategic infrastructure package for the areas which is aligned to the emerging framework.

At a recent conference, Nick Boles, Planning Minister, made the statement 'sustainable development is often informed by existing infrastructure or where infrastructure has the potential to be improved easily'. What capacity does Bucks County Council have to be proactive in initial discussions with developers in the way their initial ideas and site strategies are shaped? BCC seem to appear very reactive rather than incorporate in the scheme design. One of the primary functions in the Place business area is the engagement in the planning process with the District Councils to make sure that opportunities are not missed. The challenge is effective engagement in the process and to pick up thoughts, ideas and aspirations from local communities.

With regard to strategic thinking, Bucks County Council know where development sites are likely to appear but they do not appear to be proactively promoting a certain approach to these sites. Mr Chainani explained that some District Councils are more advanced than others. Wycombe District Council speak to Bucks County Council and service providers about the level of growth etc and ask for comments before an application is put forward. This is slightly more difficult with Aylesbury Vale District Council there is no master plan document available. All of the options for major redevelopment sites need to be considered.

Is it correct that S106 could be lost if a trigger is missed? There is a lot of responsibility for the County and District Councils and not much responsibility for the developer. Mr Chainani explained that there are records of information. There are some instances of late penalty clauses in agreements if the money isn't paid on time.

A large amount of S106 agreements are actually cash transactions where the County Council are asking for something to happen on or adjacent to a site. How do the County Council make sure this would happen? From the transport side S106 contributions are received to contribute towards certain mitigation measures that would be instigated through TfB. In other agreements the obligation is placed on the developer to carry out works under the S278 Highways Act i.e. the Arla development on the A41. It is the role of the County

Council to co-ordinate the works and ensure they meet the required standards and are fit for purpose. The cost and the risks associated with the delivery of the schemes sits with the developer.

What happens when developments stall and there is log jam of S106 requirements? How is this managed and what risks and opportunities does CIL offer to remedy this. Mr Chainani explained that from an education point of view there were issues with the development at Berryfields, Aylesbury as a lot of contributions were on the commencement of the development and the development couldn't proceed. Through Aylesbury Vale Advantage there was a loan agreed which enabled forward funding of some of the infrastructure. Once some of the contributions were received and houses were sold, the money could be used to offset the loan. Any development could become unviable at any particular time in which case the merits of each development need to be looked. We need to make sure the infrastructure is in place as and when the demand rises e.g. if a school is needed at the beginning of a development but there is not the funding in place due to cash flow issues, this can be achieved by agreeing to phased payments which on commencement can be then be used to offset any forward funding.

Mr Rippon added with regard to CIL, the main risk to the Local Authority is that they are not the collecting Authority for these funds and therefore Bucks County Council is bidding with internal services and external parties for those for limited funds. One of the primary concerns going forward is whether those funds will be sufficient to meet the needs and aspirations to support and make developments sustainable in certain locations

Wycombe is the only District with CIL in place at the moment. What is the timetable for the other three District Councils to implement CIL? Mr Chainani explained that Chiltern and South Bucks are not looking to implement CIL which would mean that effectively Bucks County Council can no longer seek pooled contributions to meet the cumulative impact of development in those areas. AVDC are looking to implement CIL in April 2014 but this is dependent on the emerging Vale of Aylesbury plan. The CIL charging schedules with the Districts do not preclude the County Council entering into separate S106 agreements for infrastructure so long as the same schemes do not appear on the District lists.

Are the Committee being asked to endorse and expedite the creation of the S106 co-ordinator role? The funding of the post is clearly a consideration for Committee members. It is hoped that the post will be funded (in part if not in whole) by the S106 monitoring fees.

The involvement of Local Members with the pre application, planning and S106 negotiation process has been endorsed. What work is taking place to ensure this involvement? Discussions are taking place around a communication strategy for this and other elements such as the Development Control function. There will be involvement from the member of this Committee to make sure the strategy is fit for purpose.

There needs to be Divisional Member sign off as well as Cabinet Member sign off. Active discussions are taking place with TfB colleagues around how to map the development sites and the emerging infrastructure of the operational hub.

A meeting is to be set up with the Lead officer and members of the ETL committee to discuss ideas for member involvement.

Action: Kama Wager

The Committee agreed the recommendations.

The Chairman explained that this is an opportunity for the Select Committee to review the areas covered at the Select Committee and Working Group meetings.

The ETL Transport for Bucks Review document was discussed to ensure that salient points, evidence and emerging themes have been captured.

25 July/21 August – Committee Members agreed that the key areas had been captured.

12 September – this was a robust meeting in terms of questioning. Tom McCabe was commended for the good work he has done in informing the Committee. Disappointment was expressed during this meeting that TfB did not produce the reports requested. The Chairman endorsed these comments.

25 September – The Committee was in agreement that the member concerns around communication issues had been incorporated into the improvement plan for the Communications and Customer Focus Project. The Committee confirmed they are happy the review is underway and is being well managed. Joe Nethercoat will report back on progress. Credit was given to the Cabinet Member for Planning and Transportation for assisting the Committee during the review process.

16 October - Tom McCabe gave an update on the internal investigation into the TfB contract and there has subsequently been oversight of the diagnostic report which mirrors a lot of the areas that the Select Committee has concerns with.

The Select Committee has touched on a wide range of issues about the contract itself and the operation of the contract both from a client and contractor point of view. Issues have also emerged about managing expectations and works on the ground.

The lines of questioning have been distilled into key main themes to help inform the final report.

- Extension of the contract
- Lack of a longer term plan
- Strategic client capability and capacity
- Contractor Control (roles and responsibilities)
- KPIs and performance monitoring
- Efficiency Savings
- Communication

The following comments have been received from Mr Butcher

- Concern KPI's (are there too many and is too much time spent trying to monitor wide range of them rather than focusing on key areas)
- Emphasis on outcomes and member of the public satisfaction
- Contract monitoring
- Value for money
- Prioritisation of work
- Having the right equipment to do the job in the right place
- The use of small, low capacity pick-ups vehicles which have limited capacity of the amount of material they can carry.

The draft recommendations will be available for the meeting of the Working Group on the 20 November for discussion.

Each recommendation will have a timescale attached to ensure it is measurable and can be monitored. Updates can be requested as and when the Committee require.

A site visit will take place to the BCC/TfB depot in Griffin Lane, Aylesbury at 1pm on the 18 November 2013.

8 COMMITTEE WORK PROGRAMME

The Committee Work Programme was noted.

The results of the Member survey will be discussed at the Working Group meeting on the 20 November.

The meeting on the 6 December will include a discussion on the topics/work programme for 2014 and agreement of the TfB report to go to the January meeting of Cabinet.

A request has been received for a Call In for the Daws Hill Area Travel Link decision. An additional meeting of the Committee has been set up on the 18 December to discuss the Call In.

Fracking will be discussed at the meeting on the 4 February 2014. An informal workshop session will be set up prior to this meeting.

9 PAPERS FOR INFORMATION

The Travel Bucks Strategy report was noted.

Policy 8 needs to be looked into further as Healthwatch may be undertaking a review. This could also link into items 3 and 7.

Action: Kama Wager

10 DATE OF THE NEXT MEETING

The next meeting is due to take place on Friday 6 December 2013 in Mezzanine 2, County Offices, Aylesbury. There will be a pre-meeting for Committee Members at 9.00am.

Proposed dates for 2014

Tuesday 4 February

Tuesday 4 March

Tuesday 8 April

Tuesday 13 May

Tuesday 17 June

Tuesday 2 September

Tuesday 14 October

Tuesday 18 November

CHAIRMAN