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## SCRUTINY COMMITTEE

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**MINUTES** of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT on Wednesday 13 January 2016 from 7.00 - 9.33 pm.

**PRESENT:** Councillors Mike Baldock, Cameron Beart (substitute for Councillor Prescott), Andy Booth (Chairman), Lloyd Bowen (Vice-Chairman), Derek Conway, Mike Dendor, Mick Galvin, Mike Henderson, Ken Ingleton, Samuel Koffie-Williams, Ben Stokes and Roger Truelove.

**OFFICERS PRESENT:** Philippa Davies, James Freeman, Andrew Jeffers and Bob Pullen.

**ALSO IN ATTENDANCE:** Councillors Gerry Lewin, Bryan Mulhern and Ghlin Whelan.

**APOLOGY:** Councillor Prescott.

### 419 MINUTES

The Minutes of the Meeting held on 11 November 2015 (Minute Nos. 327 – 337), the Extraordinary Meeting held on 9 December 2015 (Minute Nos. 386 – 387) and the Extraordinary Meeting held on 5 January 2016 (Minute Nos. 416 – 418) were taken as read, approved and signed by the Chairman as correct records.

### 420 DECLARATIONS OF INTEREST

No interests were declared.

### 421 REVIEW OF DEVELOPMENT MANAGEMENT

The Chairman welcomed the Cabinet Member for Planning, the Planning Committee Chairman, the Head of Planning Services, the Development Manager and visiting Member to the meeting.

The Chairman explained that the Committee would examine the bullet point topics included on page one of the report and go on to gather information, receive feedback from officers, and determine the main issues that Members wanted to review and look into further. The Chairman invited Members to add other issues to the list if they wished to.

Members commented on each of the bullet points, as follows.

#### **The usefulness of reports received from Kent County Council (KCC) Highways**

A Member requested that senior officers from KCC Highways and also from the Environment Agency (EA) be invited to give evidence and provide information on their input to the Planning Committee reports. The Member suggested that further

information be sought on the reasons why an organisation chose to comment 'no comment' on a planning application. The Chairman advised that agencies could be invited to provide information for the review and the Member welcomed the inclusion of those agencies being further explored as the review progressed.

A Member considered that input in the Committee reports from KCC Highways was general and technical in approach and not in the true context of the particular area or application. Another Member suggested that the Planning Committee be asked what comments they would like to see in a report; such as the cumulative impact of a development. He considered KCC Highways' comments were in isolation, and sometimes not there in time for the Planning Committee; he suggested more urgency was required.

The Head of Planning Services advised that KCC Highways were only a consultee; however, if Members were not minded to agree with their comments and this led to refusal of the planning application, KCC would not be available to defend the Members' position at a Planning Appeal and the Council would need to provide its own evidence to support their position. He advised that there had been changes at KCC in the last two years reducing the level of input from Highways on planning applications. There was standing advice, and Planning Officers had to interpret this advice on applications up to five dwellings in size. The Head of Planning Services reported that at Swale Borough Council (SBC) 88% of applications were determined by Planning Officers and 12% went to Planning Committee. He further advised that KCC Highways were involved at the pre-application stage which often led to amendments to planning applications which as a consequence removed objections from the local community and were therefore not reported to Planning Committee. A summary of their comments was always included on applicable items on the Planning Committee agenda. The Head of Planning Services explained that if Members had a highway issue on an application, that they advised the Planning Officers early on in the process, so that the issue could be looked into more closely with KCC Highways.

A Member considered Ward Members should be more closely involved on both non-Committee and Committee applications. He explained that the comment 'nothing to report' did not address the public need and it would be helpful to have more information on the basis of that comment.

The Head of Planning responded by advising that Members and the public could access the Planning Portal which included statutory comments; these were then summarised in the Committee report.

A Member explained that residents looked to elected Members to represent their views, often on highway issues. He considered the response 'no comment' did not give the perception that issues were being addressed and that a clearer and more detailed response was required.

In response to a question, the Development Manager outlined how Members could use the Planning Portal. This included registering online, selecting the application the Member was interested in, and then updates on the application were sent automatically. He agreed to provide all Members with more details of this process.

A Member also suggested that Highways England be invited to assist with the review.

Another Member suggested that Ward Members be included when residents were notified of a planning application, so that they were kept informed.

The Cabinet Member for Planning reported that the Local Development Framework Panel would be considering introducing their own Supplementary Planning Document with regard to setting local parking standards, rather than having to conform with KCC Highways parking standards.

Members also suggested that KCC Archaeology, and Ecology were invited to assist with the review.

### **The impact on the development management process of external bodies such as the Environment Agency**

Members considered some reports were superficial, and that a fuller report was needed; this was especially evident when considered against the views of Ward Members and residents who had in-depth knowledge of the local area.

### **Developer and Section 106 agreements (S.106s)**

A Member considered it would be beneficial to have more discussions on potential Section 106 agreements (S.106s) with Ward Members and residents before the application went to Planning Committee. He stated that there needed to be more Member input and discussion on S.106s and also in maintaining them, once they had been agreed. The Member raised concern with delegated S.106s, which he considered did not allow for discussion on what should be included.

In response, the Chairman suggested that Members could talk to officers on this matter, and that the process could be further explained in a training session. A Member stated that even though a S.106 had been delegated to officers, he had had the opportunity to consult with the Planning Officer, developer and Chairman which he welcomed.

The Head of Planning Services advised that the Community Infrastructure Levy (CIL) would be replacing a large element of the items currently sought through S.106's in the future. He reported that the Planning Committee were responsible and accountable for S.106s and noted that KCC was not a signatory, it was solely SBC. Over the next few months a database would be in place so that S.106's progress could be observed. He welcomed Members' input into S.106s; it was in Members' control, with officers tasked with any fine-tuning.

The Cabinet Member for Planning urged Members to get involved with S.106s at an early stage, as they had local knowledge.

A Member considered the S.106 negotiations slowed down the planning process and this needed to be addressed. The Head of Planning acknowledged the timescale issues and advised that developers were encouraged to submit heads of

terms for S.106 items at the submission of the planning application stage to help speed the process up.

A Member raised concern that it might be perceived as pre-determination if Members were to get involved with discussions with developers. The Cabinet Member emphasised that Members could get involved, but not negotiate. The Head of Planning Services strongly advised that Members spoke with the Planning Officer in the first instance, and not to speak with developers separately, as that would prejudice their position.

A Member suggested a developer be invited to assist with the review.

### **Delays in determining planning applications**

The Head of Planning Services explained that Central Government had strict deadlines for determining planning applications. These were 8 weeks for minor and other application types including householder applications; 13 weeks for 'major' applications; and 16 weeks for major applications which required an environmental impact assessment. The Government had recently introduced Special Measures if these deadlines were not met for 'major' applications and had put forward proposals within the Housing and Planning Bill to extend that to other categories of planning applications. He advised that SBC's planning performance indicators were improving and were not near Special Measures. The Head of Planning acknowledged the delay that S.106s could bring to major projects; some standard terms/templates for S.106s were being looked into and it was hoped that this would speed the process up.

A Member suggested that it would be useful for the review to know the reasons why there were delays.

In response to a query about the inconsistency of delays on planning applications, the Head of Planning Services explained that when there had been a serious backlog of applications, during the move to shared services, new applications had been dealt with first to ensure they were within the prescribed deadlines. Applications that were already past the deadline were then dealt with and consultants were employed to help deal with the backlog. The Head of Planning Services responded to a further question and advised that the applicants for older applications were contacted and extensions of time were sought and often agreed. If a case was urgent, it was sometimes possible to prioritise. He explained that there had not been a significant rise in complaints.

A Member suggested that the structure and operation of the department, including employment, both short and long-term, and recruitment issues be included within the review.

### **Communication and consultation with members of the public, parish/town councils and Members**

A Member raised concern about the consultation process with parish councils. It was suggested that Parish Council Chairmen be invited to attend, across the

Borough, for the review, particularly ones where there was considered to be an issue.

Another Member considered that consultation with the public was minimalist.

A Member suggested involvement was needed as early as possible in the process. He considered information on the SBC website was difficult to find.

Another Member considered the information available to Members was good, apart from the delay in putting it online, and that it was all there for Members to see and keep up to date with.

The Cabinet Member suggested it would be beneficial to hear from parish councils on planning matters that were going well.

### **Consistency issues**

Members spoke on the following: there had to be an element of consistency in planning; every application was different, and considered on its own merits; there were differences in design etc., but there was consistency in how decisions were made; and advice from officers needed to be consistent.

Councillor Mike Henderson proposed that 'Consistency issues' be removed from the review. This was seconded by Councillor Cameron Beart. This was put to the vote and agreed.

### **Adoption of parcels of land on developments**

The Head of Planning Services advised that Planning Officers were mindful to 'design out' stray non-conforming green areas with no functional use which in the past had led to maintenance issues and potential revenue costs to the Council.

Members made the following comments: these parcels of land generated ownership/maintenance issues; new estates layout and design needed to be looked at in more detail to ensure more practical design and layout; and there were problems when plots of land were left for the developer to maintain.

The Head of Planning Services advised that structural landscaping was needed on a development, and that a balanced approach was needed to ensure areas were properly designed and attractive to residents and did not become 'tatty' or utilitarian.

A Member suggested this topic remained as one to review and it be developed within the Development Management Service Improvement Plan 2016-18.

### **Defending planning appeals**

Members requested that the review included: the process and protocol of defending a decision, including the time it took; the level of support offered by other agencies; link to the input from KCC Highways and information on the remit of the Planning Inspectorate.

### **Monitoring and enforcement of planning conditions**

Members decided not to include this topic in the review.

### **Up-to-date and accurate information on planning applications being available on the Council's website**

This had been included as minuted above.

### **Benchmarking on performance and value for money/qualitative issues**

Members decided not to include this topic in the review. The Head of Planning Services advised that he could provide bench-marking statistics to Members.

Discussion ensued on additional topics that could be considered within this review. A Member suggested the links between departments on planning issues, such as legal/environment/enforcement/housing and whether it worked as well as it should. The Head of Planning Services advised that these departments became involved early on in the process, and was unsure of what else could be added, unless he had specific examples. Members suggested that they needed to understand how they all fitted in to the process, and if there were delays as multi departments were involved; the cost implications of a delayed planning application; and an understanding of the procedure.

The Head of Planning Services highlighted the cost of applications going to Planning Committee, rather than officer delegation, and advised that it cost five times more for an application to be considered at Committee. There were also timescale implications which affected Performance Indicators. The Cabinet Member reminded Members that the scheme of delegations had been decided upon by Members, so any changes would be a Constitutional issue.

Members discussed the applications that were called-in by parish councils, and it was suggested that this was a training issue. A Member suggested that a change to policies had reduced the amount of applications that went to Committee. Another Member considered Members played a very active part in the planning process.

A Member suggested that the cost/time/resource implications of an application going to Planning Committee be included in the review, including Committee site visits.

Members acknowledged the amount of work included in this review and the Chairman suggested that task and finish groups be set up at the next meeting.

The Chairman thanked the Cabinet Member for Planning, the Planning Committee Chairman, the Head of Planning Services, the Development Manager and visiting Member for attending the meeting.

## **422 REVIEWS AT FOLLOW-UP STAGE AND LOG OF RECOMMENDATIONS**

The report was noted.

**423 CABINET FORWARD PLAN**

A Member suggested Faversham Members be involved in the Faversham Recreation Ground – Proposed Heritage Lottery Fund Bid item.

**Resolved:**

***That the Forward Plan be noted.***

**424 URGENT BUSINESS REQUESTS**

There were no urgent business Requests to consider.

**425 COMMITTEE WORK PROGRAMME**

The Policy and Performance Officer suggested that the Development Management review should now be considered at the meeting on 10 February 2016, and the Leisure and Tourism review be considered on 10 March 2016. Members agreed with this.

A Member queried whether the Elections Review had been completed; the Policy and Performance Officer undertook to look into this matter.

The Policy and Performance Officer reminded Members that the next Scrutiny Committee meeting was on Thursday 28 January 2016 and would be considering the draft Budget for 2016/17. All Members had been invited to attend.

**Resolved:**

***That the work programme with the above amendments be noted.***

Chairman

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All Minutes are draft until agreed at the next meeting of the Committee/Panel