

Agenda

Extraordinary Audit Committee Meeting

Date: Monday, 19 February 2024

Time 6.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT*

Membership:

Councillors Andy Booth, Derek Carnell (Vice-Chair), Simon Clark (Chair), Angela Harrison, Mike Henderson, Rich Lehmann, Tara Noe, Richard Palmer and Dolley Wooster.

Quorum = 3

Pages

Information about this meeting

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2. Apologies for Absence

3. Declarations of Interest

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The Chair will ask Members if they have any disclosable pecuniary interests (DPIs) or disclosable non-pecuniary interests (DNPIs) to declare in respect of items on the agenda. Members with a DPI in an item must leave the room for that item and may not participate in the debate or vote.

Aside from disclosable interests, where a fair-minded and informed observer would think there was a real possibility that a Member might be biased or predetermined on an item, the Member should declare this and leave the room while that item is considered.

Members who are in any doubt about interests, bias or predetermination should contact the monitoring officer for advice prior to the meeting.

4. Planning - Outstanding Audit Action

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Issued on Friday, 9 February 2024

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**Chief Executive, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

Extraordinary Audit Committee	
Meeting Date	19 th February 2024
Report Title	Planning – outstanding audit action.
EMT Lead	Emma Wiggins Director of Regeneration and Neighbourhoods
Head of Service	Joanne Johnson Head of Regeneration, Economic Development and Property and Interim Head of Planning
Lead Officer	Joanne Johnson Head of Regeneration, Economic Development and Property and Interim Head of Planning
Classification	Open
Recommendations	That members note the explanation for the delayed completion of the Planning Services audit action, as detailed in the report.

1 Purpose of Report and Executive Summary

- 1.1 This report explains the delays in fully implementing the outstanding 2021 internal audit action for the Planning Service. It sets out the steps being taken to ensure the action can be closed.

2 Background

- 2.1 On 24th January 2024, members of the Audit Committee considered a report on Internal Audit and Assurance Progress.
- 2.2 The report highlighted an outstanding action from 2021 in relation to the audit on Developer Income within the Planning Service.
- 2.3 Members resolved that to determine why the action was yet to be completed, the Head of Planning Services be brought before the Audit Committee at the nearest convenient date.
- 2.4 The audit report in question was issued on 10th August 2021. The report was issued with a sound level of assurance with eight priority findings raised for action (two high, two medium and four low).
- 2.5 The outstanding action is **Finding R05: Non-Financial Contributions** which identified ‘inadequate monitoring of whether non-financial contributions are being met by the developer’. The recommendation was twofold, that
- ‘responsibility for non-financial contributions be appropriately assigned’, and
 - A post-development review should be undertaken at the end of a S106 agreement to determine if all obligations were met.

- 2.6 Non-financial contributions include assets such as affordable housing, or open space provision, and non-tangible contributions such as employment and apprenticeship opportunities which planning consent obliges a developer to provide.
- 2.7 The actions were mutually agreed, with commentary from the Planning Service that routine monitoring of non-financial obligations would involve significant resource to complete systematically, and that a procedure would need to be agreed to determine at what point a development scheme is considered complete.
- 2.8 It was noted that open space and affordable housing contributions – the two most significant components of non-financial contributions - were both monitored effectively within their respective services. Thus this action was around wider non-financial contributions, and the creation of a centralised system within Planning.
- 2.9 The target date for implementation was agreed as 31st October 2021.
- 2.10 The audit findings have been a point of regular discussion between the Audit Team and Planning Services, with the last discussion in November 2023, and an agreed further review date of April 2024. A summary of the reviews is below:

Date	Action / Outcome
January 2022	<p>Officers had met with counterparts from Maidstone Borough Council to understand their approach. A mismatch of resources and difference in developer income system (S106 vs CIL) had led officers to request a deferral of this action until June 2022 to allow for</p> <ul style="list-style-type: none"> • a wider best practice review to be undertaken, • internal resources to be allocated, and • the forthcoming White Paper to be published (to clarify whether Swale would adopt CIL).
July 2022	<p>This action was now the responsibility of a new (Interim) Head of Service. The lead officer advised that it had not proved possible to allocate existing resource to the task, and that the addition of a new post to the Planning Services structure was to be considered by the new Head of Service.</p> <p>The lead officer set out that external support for the Planning Service had been commissioned and that this agency was tasked with making recommendations for monitoring. This work was due to end in October 2022.</p> <p>It was agreed that the action be deferred to November 2022.</p>
January 2023	<p>This action had been passed to a new lead officer, following the departure of the previous lead. The new Planning Development Manager updated on progress as follows:</p> <ul style="list-style-type: none"> • monthly strategic sites meetings were to be introduced, with a range of officer attendees. This was to overcome issues previously described around obtaining information from numerous sources.

	<ul style="list-style-type: none"> • agreement had been reached as to exactly when a development was complete: it was accepted that the various stages of the development process (phasing submission, reserved matters etc), would provide a range of interim monitoring opportunities, rather than a focal end point • Officers had investigated and agreed that the S106 financial monitoring system (Exacom) could and would be used to record non-financial contributions. • The above would negate the need for a single 'post-development' review, as monitoring would occur monthly throughout the development's life and be recorded through Exacom. <p>The strategic sites meetings were actioned immediately with the full and wider implementation of this action agreed to be deferred until the new financial year.</p>
November 2023	<p>All obligations are now being recorded in Exacom. The monitoring process remains to be mapped and assigned, but this would be formalised through the forthcoming planning restructure which was due to go live in the new year.</p> <p>As an interim measure, obligations were discussed at the monthly strategic meetings, where red flags are identified.</p> <p>Agree to defer the action until the restructure implementation date of April 2024.</p>

- 2.11 The consultation on the restructure proposals for the Planning Service was launched on 15th January 2024. Proposals include the creation of a centralised Business Support and Customer Focus team, which will be responsible for the completion of this outstanding action, i.e. for the ongoing monitoring of non-financial developer income.
- 2.12 Subject to the consideration of consultation responses, the new structure will come into effect from 1st April 2024. It is unlikely that any consultation responses will impact on the commitment to deliver this action. As such, there is a strong degree of confidence that this action will be fully complete at the next review point.

3 Proposals

- 3.1 That members **note** the explanation for the delayed completion of the Planning Services audit action, as detailed in the report.

4 Alternative Options Considered and Rejected

- 4.1 There are no alternative options as this is an explanatory report.

5 Consultation Undertaken or Proposed

- 5.1 This report has not been subject to consultation.

6 Implications

Issue	Implications
Corporate Plan	Robust audit activity supports the draft Council Plan priority of effective and efficient <i>Running of the Council</i> .
Financial, Resource and Property	The audit recommendation was delayed in the fullness of its implementation due to resource issues, which have been addressed in the Planning Service restructure proposals.
Legal, Statutory and Procurement	Local authorities are legally bound to deliver an internal audit service.
Crime and Disorder	No implications identified.
Environment and Climate/Ecological Emergency	No implications identified.
Health and Wellbeing	No implications identified.
Safeguarding of Children, Young People and Vulnerable Adults	No implications identified.
Risk Management and Health and Safety	The principal risk of not discharging the audit action is identified in the original report as the potential non-completion or non-delivery of non-financial S106 contributions.
Equality and Diversity	No implications identified.
Privacy and Data Protection	No implications identified.

7 Appendices

- None

8 Background Papers

- None