

## KENT COUNTY COUNCIL

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### SCRUTINY BOARD

MINUTES of a meeting of the Scrutiny Board held in the Darent Room, Sessions House, County Hall, Maidstone on Thursday, 22 April 2010.

PRESENT: Mr E E C Hotson (Chairman), Mrs A D Allen, Mr C J Capon, Mrs T Dean, Mr G A Horne MBE, Mrs E M Tweed and Mr K Smith

ALSO PRESENT: Mr P B Carter, Mr A J King, MBE, Mr R J Lees and Mr H Yardley (Observer)

IN ATTENDANCE: Ms L McMullan (Director of Finance), Mr B Morgan (Assistant Director of Development and Community Services- Maidstone Borough Council), Mr N Smith (Head of Development Investment), Mr A Wood (Head of Financial Management), Ms D Fitch (Assistant Democratic Services Manager (Policy Overview)) and Mr P D Wickenden (Overview, Scrutiny and Localism Manager)

### UNRESTRICTED ITEMS

#### **10. Minutes - 24 February 2010**

*(Item 3)*

(1) It was noted that there would be a report to the next meeting of the Board on the revised Forward Plan including a draft template.

(2) RESOLVED that the minutes of the meeting held on 24 February 2010 are correctly recorded and that they be signed as a correct record, subject to it being clarified in minute no 3(1) that Mr Christie and Mr Lees were non voting invitees.

#### **11. Items referred to the Scrutiny Board in accordance with its Terms of Reference**

*(Item 4)*

(1) The Board received a report which set out its terms of reference and requested Members to decide how they wished to deal with the following issues which had been referred to them from the Cabinet Scrutiny Committee on 9 April 2010.

*a) Investigation of possible efficiencies from unitary authorities*

(2) The Chairman referred to the way in which Districts were working together. He informed the Board that Maidstone Borough Council had an Informal Members Group considering different models of working for local authorities. He offered to circulate the report being received by this Group to Members of the Board. It would then be for Members to decide if they wanted to take this matter forward.

*b) Major Road Repair Blitz*

(3) There was general agreement that this matter fell within the remit of the Highways, Environment and Waste Policy Overview and Scrutiny Committee and should be referred to that Committee.

*c) Safeguarding children in Kent*

(4) As this matter fell within the remit of the Vulnerable Children and Partnerships Policy Overview and Scrutiny Committee it was agreed that it should be referred to that Committee.

*d) Local Member Information*

(5) It was agreed that this would be considered later in the meeting as part of the discussion on sharing of good practise.

RESOLVED that:-

(a) subject to authorisation from Maidstone Borough Council, their update report on “Two Tier Pathfinders and New Unitary Authorities” be circulated to Members of the Board.

(b) the Environment Highways and Waste Policy Overview Committee review the Weather Damaged Repairs to Roads in Kent contract and the work to date after the £1m has been spent.

(c) the Children Families and Education Children & Partnerships Policy Overview and Scrutiny Committee receive a report addressing how and whom should have the responsibility for elected Members as “Corporate Parents” supporting the needs of Looked after Children.

**12. ‘Bold Steps for Radical Reform: The Big Opportunities for Local Government and Big Savings for the Public Purse’ report by Mr P Carter**  
*(Item 5)*

(1) This item had been put forward by Mrs Dean who clarified that she was interested in the paper not just the process around it.

(2) Mr Carter explained that the Director of Law and Governance had confirmed that it was acceptable for KCC’s logo to be used on a document produced by the Leader of the County Council. The document had been well received at its launch by all three parties. He stated that further work needed to be done on how to have more localised control over welfare expenditure in Kent. If there was a re-design of the regional landscape after the general election, consideration could be given to what would be a reasonable size for regional government. Total Place was one of the important documents for focusing on a local area, where we could save and deliver massive and substantial amounts of savings in expenditure.

(3) Mr Carter stated that an area where Members could get involved was making suggestions of where devolution could work better i.e. by spending less money and supporting citizens more effectively. In relation to Total Place he referred to access and assessment of need especially for the welfare budget relating to young people and benefits. If local government were allocated a share of the £10,000 - £12,000 per young person it would be possible to create sensible employment opportunities. This would be articulated in a paper that was currently being produced. The key issue was making better use of less resource by using it more effectively especially in the areas of economic development, housing and transport. Total Place was not just about buildings it was also about expenditure, it required a coalition of the willing and strong leadership at all levels.

(4) In response a question on how much involvement District Councils had in the development of this document, Mr Carter explained that the District Councils had seen the document as had authorities in the South East, and had the opportunity to comment and shape it. The document had been shaped to shed a positive light on the local government family and to make the two tier structure work. He also referred to work on the new Kent Commitment.

(5) Regarding local authorities and the provision of healthcare, Mr Carter stated that it would be a massive operation to reconfigure services differently. The key concept was could we do it differently with less resources. Local government democracy had more input than they had in the past, local government had a proven track record of the way that they were run and had earned greater autonomy.

(6) Mr Carter informed the Board that Mr Bowles was leading a group of District Councillors who were looking to define how a control shift could work if empowered by the removal of regional authorities. He acknowledged that there would need to be revised governance arrangements to achieve this.

(7) In response to the issue of the public being aware of which tier of local government was responsible for different provisions (and in the case of street lighting in some area all three tier may be responsible for different lights within that area), Mr Carter stated that there was a need to move forward, with District Council colleagues in developing seamless services. A good example of joint working was the waste management arrangements in East Kent.

(8) In relation to a question on whether all county Councils would be large enough to effectively take over the regional agenda for their area, Mr Carter stated that this was flexible, the paper suggested 46 units the first draft had 35. Local government borders were obvious basic building blocks but they did not have to be. Regarding devolution to Districts this was part of discussion with Leaders and Chief Executives about commissioning local based services collectively and getting appropriate governance arrangements. He acknowledged that service needs were different in different areas and therefore commissioning should be done locally to ensure that what was provided was in the best interests of local residents.

(9) In response to a question Mr Carter confirmed that officers were aware of the changes necessary especially in relation to Total Place and Chief officers were working with Members to shape a radical new way forward.

(10) RESOLVED that :-

(a) Mr Carter, be thanked for attending the meeting and answering Members' questions

(b) Mr Carter report to the Board on progress at a time that he considers appropriate.

### **13. Development Contributions & Infrastructure**

*(Item 6)*

(1) Mr Smith introduced the report and explained that the provision of adequate infrastructure and facilities alongside housing growth was essential if we are to achieve aspirations in respect of sustainable communities and ultimately places where people want to live. It was the Government's expectation that developers would make an appropriate contribution to the required infrastructure to deliver this objective and, therefore, make proposals acceptable in planning terms. The report outlined the County Council's approach, particularly with regard to, the process for agreeing Section 106 agreements, monitoring performance, dealing with recession and the way forward.

(2) Mr Morgan, Assistant Director of Development and Community Services at Maidstone Borough Council, referred to the planning tests for Section 106 agreements as set out in the report. He explained that prior to the recession when negotiating on major developments, the Borough Council would seek 106 contributions if appropriate, for highways, education, libraries, social services, affordable housing, open spaces, primary care facilities, community facilities and community safety. This list was not exhaustive and would vary depending on the development. Due to the length of this list the Council had been forced to prioritise how contributions were being used even prior to recession. Since the recession the position had changed. In 2008-09, 411 houses had been built in Maidstone and up until 3<sup>rd</sup> quarter of the last financial year 400 houses had been built but the majority of these were affordable housing under existing planning permissions.

(3) Mr Morgan stated that in order to stimulate the provision of market housing there was a need to re-negotiate existing section 106 agreements and to take a different approach with new agreements. Authorities were going to have to go back and review priorities and accept that every item on the list was not deliverable.

(4) Mr Morgan explained that the Section 106 system was undergoing change. The Community Infrastructure Levy was coming forward, although this had not yet been finalised. He believed that where we may get to is in effect to have a tariff for the provision of general infrastructure but there would also still be the need for Section 106 agreements to deliver on site provision, for example affordable housing and any specific issues relating to highway improvements in the site. The key issue was how to pitch the tariff without stifling the provision of homes. He mentioned that the Borough Council were developing their core strategy and when looking at the level of infrastructure necessary for the 11080 homes which they needed to provide by 2026 the cost of this would run into hundreds of millions of pounds. Under the Social Housing Relief which came into force on 6 April 2010 it appeared that

affordable housing was exempt from Section 106 agreements, which for Maidstone Borough would remove 40% of housing from the need to make contributions. Clarification on this was being sought from the Government Office for the South East. Also in the planning period up to 2026 Maidstone Borough Council had to provide a certain number of jobs which again would have an implication in terms of infrastructure, for example highways but there was also the addition issue of whether they should seek contributions towards skills training and education.

(5) Mr Smith explained that when looking at the provision of infrastructure one of the tests was to look at what the gap in provision would represent in terms of economic and social risk and they looked at triggers in relation to reconfiguring the cash flow.

(6) A Member referred to some developments where the developer would develop the site to a level below the trigger size that would require them to make contributions, which level the provision for facilities for the site incomplete. Mr Smith stated that he was conscious of that and provisions were now put into legal agreements to avoid that situation. Mr Morgan confirmed that a key issue for local authorities was how to protect the provision of the infrastructure needed for the development through the structure of the legal agreement.

(7) In response to a question Mr Smith explained that there was a government circular that set out what Section 106 agreements could provide for one of the tests was that the facilities required should be directly related to the impact of the development, if a local authority went outside of this they could be challenged.

(8) Mr Smith confirmed that agreements relating to the route of Heavy Goods Vehicles to a development would more likely be the subject of a planning condition rather than a Section 106 agreement. He also explained that if money set aside under a Section 106 agreement for the provision of a certain facility was not required for that purposes, it would be paid back to the developer.

(9) A Member expressed the view that there should be a Sub-Committee of the Environment, Highways and Waste Policy Overview Committee to take over the reviewing of Section 106 agreements. This role was currently carried out by the Cabinet Scrutiny Committee's Informal Members Group on Budget Issues.

(10) Mr Morgan confirmed that the local authority who signed the Section 106 agreement was responsible for monitoring it. If an agreement was made under the Highways Act then this would be monitored by Kent County Council as the highway authority.

(11) Mrs Dean requested a note of who was responsible for enforcing the agreements that were in place with District/Borough Councils

(12) In response to a question Mr Morgan explained that the timing for Section 106 monies to be paid depended on the way that the agreement had been structured. He also confirmed that it was possible for Section 106 monies to be passed onto Parish Councils by the District Council.

(13) Mr Morgan explained that if a developer went into liquidation before the Section 106 monies had been paid, the agreement ran with the land and would therefore still be valid.

(14) The Chairman asked if it would be possible for Section 106 agreements to provide for contributions to be made towards improving Broadband infrastructure as this was an issue that had been raised at the Corporate Policy Overview and Scrutiny Committee on 8 April 2010. Mr Morgan stated that he was not confident that this would fall within the test in the government circular, a key question was would the authority refuse planning permission if no provision was made in the agreement.

(15) RESOLVED that:-

(a) Mr Morgan and Mr Smith be thanked for attending the meeting and answering Members' questions

(b) the comments made and the responses to the questions asked by Members help inform the report to the Regeneration and Economic Development Policy Overview and Scrutiny Committee.

#### **14. POSC IMGs on Budget Issues**

*(Item 7)*

(1) Ms McMullan introduced the report and invited Members comments on the way in which the Overview and Scrutiny Committee contributed to the budget process in 2009/10 and any suggestions for how this could be improved for 2010/11.

(2) The following views were put forward:-

- It was important for as many Members as possible to be involved in making a contribution to the development of the budget.
- Having just one meeting to consider the Medium Term Plan in detail, and to set priorities using a formula, seemed like a rushed process and it would have been helpful to have been involved earlier.
- It was suggested that the Policy Overview and Scrutiny Committees should start their consideration of the budget in May or June.
- The need to provide training for Overview and Scrutiny Members so that they could effectively carry out this role was emphasised.
- A member expressed the view that the Council should be policy led rather than budget led. Ms McMullan confirmed that this was the case.
- The importance of Cabinet Members and Deputy Cabinet Members setting out their priorities for Policy Overview and Scrutiny Committees, so that they can assist them in their work, was highlighted.
- It was essential that Policy Overview and Scrutiny Committee were able to spend enough time, either in their meetings or through an Informal Members Group, to give constructive consideration to the medium term plan and the budget.

(3) Mr Simmonds referred Members to the quarterly monitoring reports that all Policy Overview and Scrutiny Committees received which contained a lot of helpful information. He stated that there was nothing to stop Members at any time putting

forward suggestions and ideas and he was happy to attend any of the Policy Overview Committees to provide a budget update.

(4) RESOLVED that:-

(a) a half day training session(s) on Overview and Scrutiny and the Budget process be arranged for all Overview and Scrutiny Members, based on the session run by Mr Wood after the 2009 elections. (It was suggested that this be held on the afternoon of a Scrutiny Board meeting to ensure that all Overview and Scrutiny Chairman were able to attend)

(b) at the June/July meetings of POSC's, as part of the financial monitoring report, all POSC's be asked to formulate their arrangements for contributing to the development of the budget so that they are able to have an input at an earlier stage than previous years.

## **15. Select Committee on Dementia**

*(Item 8)*

(1) The Chairman read a letter from Mr Lake, the Chairman of the Adult Social Services Policy Overview Committee, strongly putting forward the view that the Select Committee on Dementia should come under the remit of his Committee, and not have a joint remit with the Health Overview and Scrutiny Committee.

(2) Mr Horne, the Chairman of the Health Overview and Scrutiny Committee, stated that his Committee were considering a number of associated issues.

(3) RESOLVED that Adult Social Services Policy Overview Committee be the parent Committee for the topic review on Dementia, with the opportunity for the Membership to include Members from both ASS POSC and HOSC, and that this review be started in the Autumn of 2010 and report to County Council in April 2011

## **16. Sharing of good practise**

*(Item 9)*

(1) In relation to Member Information Mr King informed the Board that he had tasked two officers with identifying the blockages and putting forward proposals on how they could be overcome. He would report the outcome of this to Members. He confirmed that there would be a focus group of Members to assist with the development of Kent Digital Services.

(2) A Member raised the issue of how Policy Overview and Scrutiny Committees could play a role in scrutinising officer re-structuring. It was suggested that as these should be identified in the Forward Plan of Key Decisions it would be for Member to put them on the agenda for their Committee.

(3) Mr Wickenden stated that this item would be a standing item on the agenda for this Board to give Members the opportunity to share good practise. He referred to Mr Yardley, Clerk to the Communities and Local Government Select Committee, who

was spending time in Kent Councils and he hoped that this would be the start of a two way exchange for Officers and Members.

(4) RESOLVED that there be a report to the next meeting of the Committee on how and when it was proposed to progress the on Member information.