

KENT COUNTY COUNCIL

SCRUTINY COMMITTEE

MINUTES of a meeting of the Scrutiny Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Tuesday, 11 October 2022.

PRESENT: Mr A Booth (Chairman), Mr P V Barrington-King (Vice-Chairman), Mr N J Collor, Mr G Cooke, Mrs S Hudson, Mr D Jeffrey, Mr R C Love, OBE, Mr H Rayner, Dr L Sullivan, Mr A J Hook and Mr P Stepto

ALSO PRESENT: Mr D L Brazier (Cabinet Member for Highways and Transport), Mrs S Prendergast (Cabinet Member for Education and Skills), Mr A Brady, Ms S Hamilton and Mr T Hills

IN ATTENDANCE: Mrs S Hammond (Corporate Director of Children, Young People and Education), Mr S Jones (Corporate Director of Growth, Environment and Transport), Mr B Watts (General Counsel), Ms C McInnes (Director of Education), Mr M Tant (Flood Risk Manager), Mrs A Taylor (Scrutiny Research Officer), Mr G Romagnuolo (Research Officer - Overview and Scrutiny) and Mr M Dentten (Democratic Services Officer)

IN ATTENDANCE VIRTUALLY: Mrs R Binks

UNRESTRICTED ITEMS

58. Declarations of Interests

(Item A3)

1. The following declarations were received:
 - a. Mr Jeffrey declared in relation to Item A5 'SEND Transport Lessons Learnt Review Report' that he was a qualified teacher, register to two agencies for supply teaching, and a member of NASUWT, the Teachers' Union.
 - b. Mr Collor declared in relation to Item A6 'Short Focused Inquiry - Section 106 Contributions' that he had been a member on the Short Focused Inquiry.
 - c. Dr Sullivan declared, in relation to Item A6 'Short Focused Inquiry - Section 106 Contributions,' that she was the Cabinet Member for Strategic Environment at Gravesham Borough Council, which included Planning.

59. Minutes of the meetings held on 20 July and 18 August 2022

(Item A4)

RESOLVED that the minutes of the meetings held on 20 July and 18 August 2022 were an accurate record and that they be signed by the Chairman.

60. SEND Transport Lessons Learnt Review Report

(Item A5)

Mr D Brazier, Cabinet Member for Highways and Transport; Mrs S Prendergast, Cabinet Member for Education and Skills; Mr A Brady, Member for Canterbury City North; Mrs S Hammond, Corporate Director of Children, Young People and Education; Mrs S Jones, Corporate Director of Growth Environment and Transport; Mr B Watts, General Counsel; and Mrs C McInnes, Director of Education were in attendance for this item.

1. The Chairman introduced the item, reminded Members of the Committee's previous scrutiny of SEND Transport at its meetings in March and April 2022, the service failure's impact on some of Kent's most vulnerable residents and highlighted Internal Audit's SEND Transport Lessons Learnt Review Report which was published on 29 September. He emphasised the importance of the Committee investigating what changes and improvements had been made since the issues were originally identified in February.
2. After introducing the Cabinet Members, the Chairman asked what guarantees could be given to reassure the public and service users that a quality service was now being provided by the Council.
3. Mrs Prendergast reiterated her sorrow and recognised that issues were unacceptable. She thanked Internal Audit for their Review and identification of the corporate inadequacies which contributed to the issue. She reassured the Committee that the Review's recommendations would be followed up by herself as the Cabinet Member and senior officers within her portfolio. The Committee were told of the work undertaken since February to rectify the issues, which had included extensive consult with Kent Parents and Carers Together (PACT) throughout, Mrs Prendergast explained that as of September 99% of on time applicants for SEND Transport had received appropriate provision.
4. Mr Brazier reminded Members that the issues had been brought to his attention on 10 February and summarised the steps taken to rectify the issues in the days following. He noted that following his appointment as Cabinet Member for Highways and Transport in May 2021, he had been briefed on the retender of SEND transport and was advised that the exercise was business-as-usual and would not require a key decision. He reassured Members that the efforts to return the service to a business-as-usual footing had been carried out in a diligent and structured manner. Thanks were given to Internal Audit for their Review.
5. The significance of the distress experienced by children and parents as a result of the service failure, which had compounded the pandemic's negative impact on education, health and social wellbeing was highlighted by a Member. They asked that the impact of the issue on attainment and behaviour be investigated, incorporating direct feedback from schools. Mrs Prendergast outlined the arrangements put in place in response, which included providing children with alternative and online education. Mrs Hammond acknowledged the merits of a deep dive into the impact on children's educations and agreed to be involved where required.

6. A Member asked for reassurance that future SEND transport tenders would take account of the human cost on proposed changes and that the officers involved in the exercise be appropriately resourced and trained. Mrs Prendergast agreed that any future service redesign or re-tendering would factor in the human impact.
7. A comment was made by a Member, that it was difficult to fully scrutinise the changes proposed by the executive until the planned management response was published. Mr Watts confirmed that the management response would be reported initially to the Governance and Audit Committee.
8. Members asked whether the intended £2m saving had been realised as a result of the tender. Mrs Prendergast confirmed that the planned savings had been achieved and reassured the Committee that the service tender, taking account of increased service demand, had created sufficient capacity.
9. A Member highlighted the Review's conclusion that there had been a detrimental impact on SEND children and families across Kent that had resulted in a lack of trust in SEND transport. They asked whether the Cabinet Members had been updated on the progress of the tender between May 2021 - February 2022. Mrs Prendergast confirmed that she had regularly received updates on the new software used as part of the tender process. She reiterated that at no point in the period was she advised that a key decision was required.
10. Mr Brazier left the meeting. The Chairman expressed his disappointment that Mr Brazier had left partway through the item, given the impact of the issue under consideration on residents across Kent and that Members had been left with unanswered questions.
11. Mrs Prendergast was asked by a Member whether she believed the Children, Young People and Education (CYPE) directorate had sufficiently instructed and intervened when commissioning the SEND transport tender. She confirmed that she had been assured that at all times the correct information was shared with Growth, Environment and Transport (GET) in order to allow them to complete the tender and deliver the service.
12. In relation to the tracker for pupil transport arrangements recommended by the Review, a Member asked that pupils' transport requirements also be included in the tracker to ensure appropriate provision. Mrs McInnes reassured Members that the authority held accurate data about pupils' and their requirements. She explained the operational data sharing process and acknowledged that whilst the Review had highlighted multiple points of failure that the data held was accurate and improvements had been made as to how it was used.
13. The Chairman thanked Mrs Prendergast, Mrs Hammond, Mr Jones and Mrs McInnes for their attendance and assured Members that future key decisions related to SEND transport would be brought to Scrutiny for consideration.

RESOLVED to comment on and note the SEND Transport Lessons Learnt Review Report.

61. Short Focused Inquiry - Section 106 Contributions

(Item A6)

Mr T Hills, Chairman of the Section 106 Contributions Short Focused Inquiry; Ms S Hamilton, Member for Tunbridge Wells Rural; and Mr G Romagnuolo, Research Officer (Overview and Scrutiny) were in attendance for this item.

1. Mr Hills introduced the Section 106 Contributions Short Focused Inquiry's (SFI) Report. He outlined the SFI's headline findings, which included: that KCC had secured over £300m in developer contributions since 2014, leaving an infrastructure funding gap of £4bn; the importance of early Member involvement in the planning process to maximise the impact of developer contributions; and that the impact of development on the natural environment should be factored into decision-making.
2. Mr Romagnuolo detailed the SFI's terms of reference which were to: define and contextualise Section 106 contributions in Kent; explore the key challenges experienced by KCC in securing Section 106 contributions; and identify actions that KCC could take to maximise Section 106 contributions. He gave an overview of the individuals and organisations which had given evidence to the Inquiry, including KCC's Cabinet Member for Economic Development, Chairman of the Kent Planning Officers Group and Chairman of the Kent Developers Group.
3. Members commended recommendation 2 'that KCC Members should be advised early enough on planning applications to be able to have an input into Section 106 agreements. The relevant KCC services should inform KCC Members at the earliest possible time of proposals for new housing development in their own divisions.'
4. A Member commented that the report required a greater focus on what could be done to enhance planning and developer contribution partnership working between KCC and borough, district and city councils. They added that information on how contributions had been spent in districts should also be included.
5. In relation to recommendation 5, a Member asked what constituted 'exceptional circumstances.' Mr Romagnuolo clarified that the caveat had been included in the recommendation as there may be circumstances in which a minimum 20% Biodiversity Net Gain may be unfeasible.
6. Concerning recommendation 1, Mr Love confirmed, as Chairman of the Growth, Economic Development and Communities Cabinet Committee, that an All-Member Briefing on infrastructure funding had been organised for 31 October.
7. A Member emphasised the importance of KCC engaging developers early in the planning process and noted that an agile approach could lead to more

contributions. They commented that developer contributions should be monitored by Members at the most appropriate committee.

8. The SFI was commended by a Member for expanding Members' understanding of Section 106 and the wider planning process, noting the legal constraints. They stated that it was important to explain how Members could suitably represent local needs.
9. A Member asked whether the SFI had considered whether the suggested minimum of 20% Biodiversity Net Gain from new developments, cited in recommendation 5, took account of Kent's economic growth goals and remarked that the target could impact inward investment into Kent as well as the construction of housing, including stater homes. Mr Romagnuolo reassured the Committee that the 'exceptional circumstances' caveat enabled a level of flexibility on the matter, accounting for Kent's economic growth ambitions. He added that the Inquiry had received an independent assessment on the matter, which concluded that most costs to developers occurred when meeting the minimum target of 10% Biodiversity Net Gain and that an uplift would have a lesser impact.
10. Mr Hills detailed the SFI's 6 recommendations.
11. The Chairman moved "that the Scrutiny Committee approve the Short Focused Inquiry Report into Section 106 contributions, and that it be submitted to the Leader and relevant Cabinet Members along with a request for a formal response to the recommendations within two months."
12. Members voted on the motion. The motion passed by majority vote.
13. Mr Love and Dr Sullivan asked that it be recorded that they voted against approving the SFI Report.

RESOLVED to approve the Short Focused Inquiry Report into Section 106 Contributions, and that it be submitted to the Leader and relevant Cabinet Members along with a request for a formal response to the recommendations within two months.

62. Kent Flood Risk Management Committee - Annual Report *(Item A7)*

Mr T Hills, Chairman of the Kent Flood Risk Management Committee; and Mr M Tant, Flood Risk Manager were in attendance for this item.

1. Mr Hills introduced the Annual Report which provided an overview of the Kent Flood Risk Management Committee's work since the May 2021 election. He explained the Committee's role and highlighted the two-pronged approach employed, which focused on the impacts of and readiness for climate change, whilst also scrutinising Kent flood risk authorities' ability to respond to events in the short term.

2. A Member shared their concerns in relation to the risks exposed to vulnerable residents at the Little Venice Country Park and Marina, which was considered by the Committee in July 2021.
3. The Chairman asked that the Committee further investigate the issue of cliff erosion and efforts of partners, including the Environment Agency, going forward.
4. Mr Hills invited Members to attend future meetings of the Kent Flood Risk Management to share their concerns and receive updates from partners.

RESOLVED that the Kent Flood Risk Management Committee Annual Report be noted.

63. Work Programme

(Item A8)

RESOLVED that the work programme be noted.