



**MINUTES of  
OVERVIEW AND SCRUTINY COMMITTEE  
2 OCTOBER 2019**

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**PRESENT**

Vice-Chairman	Councillor R P F Dewick (in the chair)
Councillors	E L Bamford, V J Bell, M S Heard, C P Morley, S P Nunn and R H Siddall
Substitute Councillor(s)	K W Jarvis

**429. CHAIRMAN'S NOTICES**

The Chairman drew attention to the list of notices published on the back of the agenda.

**430. APOLOGIES FOR ABSENCE**

An apology for absence was received from Councillor M W Helm.

In accordance with Procedure Rule 17 (9, 10), Councillor K W Jarvis attended as substitute for Councillor M W Helm.

**431. MINUTES OF THE LAST MEETING**

**RESOLVED** that the Minutes of the meeting of the Committee held on 28 August 2019 be approved and confirmed.

**432. PUBLIC PARTICIPATION**

There was none.

**433. DISCLOSURE OF INTEREST**

It was noted that, with reference to Agenda Item 7, Conduct Complaints, Councillor W Stamp (who was in attendance) stated that had she had an ongoing complaint.

**434. SECTION 106 AGREEMENT FOR TESCO FREE BUS SERVICE AND THE MALDON AND HEYBRIDGE CENTRAL AREA MASTERPLAN'S 'PARKING STRATEGY'**

Members of the Committee received a presentation from the Strategic Theme Lead on the Section 106 (S106) Agreement between Tesco Stores Limited, Essex County Council (ECC) and Maldon District Council (MDC). This covered a schedule of requirements to be provided by Tesco Stores Limited including a free Bus Service.

The Strategic Theme Lead advised Members that whilst the bus service had been provided the outstanding requirements had yet to be delivered by Tesco Stores Limited.

In accordance with the presentation and in response to Members' questions, the Strategic Theme Lead provided the following update:-

**Tesco Stores Limited Free Bus Service**

In 1999 a S106 was signed agreeing to the extension of the store. The terms required Tesco Stores Limited to secure transportation improvements in the guise of a free bus service to improve access to the Town Centre.

This included up to 50 free car parking spaces were allocated for the free bus service. Restrictions included a maximum of 4 hours free parking with the exclusion of bank holidays and Christmas. It was noted that the onus was on Tesco Stores Limited to determine how this was monitored and enforced.

The agreement included a review clause, requiring Tesco Stores Limited to appropriately display the route information, ensure effective operation of the service through regular monitoring, and encourage use through various initiatives.

As part of the agreement Travel Plan Co-Ordinator (TPC) should have been employed to survey and monitor the scheme, which included the roll out of staff and public incentives. The TPC was expected to have liaised with MDC and ECC on an annual basis to review the scheme.

Of the planning obligations which were part of the S106 agreement it was noted that highway works on the Fullbridge crossing and River Chelmer embankment works were complete, the 50 free carparking spaces remained available at Tesco's and that Tesco Stores Limited were exercising their right to enforce the 4-hour time limit.

It was also acknowledged that the 5-yearly review of the bus service has not been actioned since 2001 and the marketing plan for the free bus route remained outstanding.

**THE MALDON AND HEYBRIDGE CENTRAL AREA MASTERPLAN'S (CAMP) PARKING STRATEGY**

Objectives of the Maldon and Heybridge Central Area Masterplan (CAMP) SPD (adopted November 2017) were to actively manage traffic, visitors and parking within the town centre, and provide enhanced public transport. It was previously noted that the town centre car parks were near capacity with limited space for extension.

Since CAMP was adopted, an additional 400 spaces were being provided at the peripheral of the town centre and the site for the new Travelodge Hotel. The free bus service operated by Tesco had been incorporated and included a new Park and Ride facility to be connected to the current Free bus route at the Blackwater Leisure Centre.

The LDP had been prepared and considered management of the air quality on Market Hill, with policies around growth informed through consultations.

In conclusion, it was noted that the LDP had been prepared with stakeholder consultation, which was used to inform the strategic policies relating to housing, economic growth and highway transportation. As part of the CAMP consultations, improvement to connectivity and movement for pedestrians and cyclists had been identified.

S106 Obligations to ongoing development within the Garden Suburbs required the provision of new bus stops, shelters and services. It was noted that a national bus strategy was recently launched, and it was anticipated that this could provide further funding for local authorities on sustainable transport.

### **Next Steps**

Communications with Essex County Council and Sustainable Travel Team have advised that there had been no response on the application had been received since 24 October 2008. While it was suspected that Tesco Stores Limited and Stephenson's of Essex negotiated changes to the route independently of ECC and MDC, no monitoring had been undertaken by ECC on the travel plan for the Tesco site.

ECC would be looking to identify why the aforementioned obligations had not been actioned. It was noted that ECC had contributed £3000.00 towards the review.

The Local Plan Specialist had liaised with Tesco Stores Limited to understand the service delivered by Stephenson's of Essex.

As Market Hill is on the bus route, the Air Quality Management Area Action Plan Steering Group would be consulted.

The Maldon and Heybridge Central Area Plan had started delivering on projects which would ensure that parking strategy, movement, connectivity framework was considered in future negotiations. It was expected that Tesco Stores Limited would demonstrate the usage of the bus route.

The brief discussion which followed had Members concur that Tesco Stores Limited had neglected their obligations.

### **RESOLVED**

- (i) that an update be provided to the December meeting of this Committee.
- (ii) that the Committee notes the report as background to the PowerPoint presentation.

#### 435. CONDUCT COMPLAINTS

The Director of Strategy, Performance and Governance presented Members with the report which set out the Council's procedures for dealing with issues relating to Members' Code of Conduct. The process for dealing with complaints was set out in appendix 1, and the full code of conduct was attached at appendix 2.

Councillor M S Heard stated that the report did not answer the original request, which was to provide the Committee with statistics from 2015 to date detailing the number of complaints received by the council, the number of referrals<sup>1</sup>, and the political affiliations respectively. The Director of Strategy, Performance and Governance confirmed that he was happy to go through the Terms of Reference with Councillor M S Heard and bring the report back to a future meeting of the committee.

In response to further questions to the Corporate Leadership Team (CLT), with support from the Chairman, the following information was provided:

- Were a complaint to be made against the Leader of a Group it would be investigated with the results being referred to the Joint Standards Committee subject to the advice of the independent person;
- The Leader of the respective group is advised as it would be anticipated that the group would wish to support their member through any complaints process. It was noted that the conclusions outlined in appendix 1, Stage 1, Section 5 were options that could be taken at that stage of the process; and
- When a complaint is made this can go to the Monitoring Officer, who will investigate confidentially.

A discussion ensued where Members expressed concern that the procedures and Terms of Reference were unclear and not fit for purpose. The Director of Service Delivery advised the Committee that the report contained options for referral, and the Chairman commented that the process had improved in recent years.

Members requested that information on the whistleblowing process was made available as part of the Maldon District Council Member Training and included in the Code of Conduct.

#### **RESOLVED:**

- (i) That a further report is provided detailing the following information:
  - a. the number of complaints raised since 2015;
  - b. the number of referrals to Joint Standards;
  - c. the outcome; and
  - d. political affiliations of those involved in the aforementioned points.
- (ii) That Member Training include information on the whistleblowing policy; and
- (iii) That the whistleblowing policy be included in the Code of Conduct.

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<sup>1</sup> Minute 504 (31/10/19)

## **436. PROGRAMME OF WORK**

The Director of Strategy, Performance and Governance Presented the Programme of Work to the Committee advising that with the commencement of the new structure from 3 October 2019 the Committee would be working toward the new Terms of Reference. Members were asked to review the current programme of work with a view to removing standing items, those which could not be progressed further, or alternatively add timelines for completion.

### **Waste Water**

Following the presentation from Anglian Water at the 28 August 2019 meeting, it was acknowledged that no further work could be done on this item and therefore it was agreed that it be removed from the Programme of Work.

### **Health Care Provision**

A portion of the Committee believed that this item ought to remain as it was considered crucial.

Councillor E L Bamford, the Member Sponsor, requested that the item be retained. She concurred with the Officers report that specifics on the S106 monies be designated as part of that item and that performance reports form part of the Performance, Governance and Audit Committee (PGA) agenda. However, other aspects covered as part of this item of scrutiny should remain.

The Chairman put Councillor E L Bamford's suggestions to the Committee and, following a vote, it was agreed this item remain on the Programme of Work.

### **Section 106 (S106) Updates**

A discussion ensued with the majority Members requesting that this item remain.

The Director of Strategy, Performance and Governance confirmed that S106 Updates would be reported to PGA, however any items going to this Committee should be on how S106 was reviewed or reported. Members were reminded that this item of work had evolved from the recording of S106's to scrutinising specific items on the database, and that a lot of prior concerns had been dealt with. A percentage requested that the Committee retain a watching brief.

It was agreed that this item remain subject to review following receipt of the report due at the 31 October 2019 meeting.

### **Business Opportunities for Maldon District Council**

Councillor S P Nunn expressed concern that this item specifically related to a request from Essex Police for additional space at the Council's Princes Road offices and requested that this should form part of a wider brief to scrutinise decisions on the Council's commercial operations.

In response to questions, the Director of Service Delivery confirmed that an accommodation offer had been made, but it remained under consideration by Essex Police.

The Chairman reminded the Committee that it was not their responsibility to identify business opportunities, but instead to scrutinise decisions taken by the Council. Several

Members suggested that this item remain on the Programme of Work with a wider brief so long as projects were reviewed effectively. The practicality of monthly updates was considered, followed by a short discussion as to whether this would be more suited to a working group of the Strategy and Resource Committee (S&R) with this item revisited for specific projects.

Councillor M S Heard expressed concern that Independent Members had been denied access to Working Groups, suggesting that Overview and Scrutiny had been formed to provide public reassurance, and this item should be retained to ensure that Independent Members remain informed. The Chairman confirmed that Members had access to the minutes of working groups which would evidence the appropriate handling of items of work.

The Corporate Leadership Team (CLT) confirmed that the Commercial Strategy would be taken forward by S&R, with concerns open to scrutiny by this committee. It was further advised that this Committee should only be looking at specific occurrences requiring investigation, and a reminder that the role of the Committee was retrospective, and that duplication of work should be avoided.

The Chairman confirmed that the Committee had a duty to identify problematic operations and considered the work plan for the previous twelve months was too non-specific. The Director of Strategy, Performance and Governance confirmed that quarterly performance reports go to PGA Committee with issues being scrutinised by this committee as supplement to the Programme of Work.

Councillor S P Nunn proposed that scrutiny of the Application of the Council's Commercial Strategy be added to the Programme of Work, and this was duly seconded.

The Chairman put Councillor S P Nunn's proposal to the committee, and upon a vote being taken it was agreed that this item be added to the Programme of Work.

Subsequent to the vote, it was agreed that Councillor S P Nunn and Councillor M S Heard be the Member Sponsor, and that *Business Opportunities for Maldon District Council* be removed from the Programme of Work.

### **Monitoring of the Organisational Change Programme**

Councillor R H Siddall confirmed that an issue had been identified and requested that this item remain on the Programme of Work until the outcome had been fed back to Committee.

The Director of Strategy, Performance and Governance confirmed that either specifics and deadlines be provided to the 31 October 2019 meeting of this committee or it be confirmed that this item be closed.

### **Provision of Car Parking**

#### ***Events at Promenade Park***

The Director of Service Delivery confirmed that the review by South Essex Parking Partnership (SEPP) was in hand, and would be an ongoing item of work for S&R.

The Committee agreed that, subject to the Director of Service Delivery circulating the completed review, *Events at Promenade Park* could be removed from the Programme of Work.

***Park and Ride Schemes within the District and  
Identification of a Second Park and Ride Scheme within the District***

Councillor E L Bamford stated that this was a valid item of scrutiny and requested that this remain with a report identifying any links to items that may have similar failings as the Tesco Stores agreement. The Director of Strategy, Performance and Governance advised this would result in a duplication of work and requested that Members avoid generalising and identify specific items.

The Committee agreed that the items relating to Park and Ride Schemes be retained as an item on the Programme of Work.

**Waste Contract**

A brief discussion confirmed that the item was complete as the issue regarding the reliability of contractor vehicles had been fully investigated. The Director of Service Delivery confirmed that the contract with SUEZ was under review, and should any further concerns raised this could be reinstated.

Councillor V Bell raised concerns on recycling and waste disposal within the district and was advised by the Chairman that this should be raised under Agenda Item 8, *Any other items of scrutiny Members wish to consider*.

The Committee agreed that this be removed from the Programme of Work.

**Review of Fire and Rescue Service Provision within the Dengie**

The Committee agreed that following the presentation from the Police, Fire and Crime Commissioner (PFCC) and no subsequent concerns being raised this item of work had been completed and could be removed from the programme of work.

**RESOLVED**

- (i) That the following items be removed from the Programme of Work:
  - Business Opportunities for Maldon District Council;
  - Provision of Car Parking:
    - Events at Promenade Park;
  - Review of Fire and Rescue Service Provision within the Dengie;
  - Waste Contract;
  - Waste Water.
- (ii) That the following items remain on the Programme of Work:
  - Health Care Provision;
  - Monitoring of the Organisational Change Programme
  - Provision of Car Parking:
    - Park and Ride Schemes within the District;
    - Identification of a Second Park and Ride Scheme within the District;
  - Section 106 Updates.
- (iii) That the following items be added to the Programme of Work:

- Scrutiny of the Application of the District Councils Commercial Strategy

#### **437. ANY OTHER ITEMS OF SCRUTINY MEMBERS WISH TO CONSIDER**

The Committee considered the following items of work to be added to the Programme of Work:

##### **Due Diligence**

**Capita** – Following comments relating to Capita’s track record and capability, Councillor V Bell requested that a report was provided to the Committee to identify what due diligence went into the Council’s decision to partner with Capita.

The Director for Strategy, Performance and Governance advised that this would be more suited to review as part of the Monitoring of the Organisational Change Programme.

**Monoworld** – Concerns were raised by Councillor V Bell that partnering with a company who had previously been fined for illegal exporting of waste and numerous health and safety issues would reflect badly on the Council.

Councillor V Bell proposed that this item be added to the Programme of Work, this was duly seconded. Upon a vote being taken this was agreed. A report would be brought to a future committee outlining all waste destinations.

It was also confirmed that Councillor V Bell be the Member Sponsor for this item.

##### **Council’s Accounts**

Councillor K W Jarvis said that the Council’s accounts were still unpublished and suggested that a review be undertaken.

The Chairman reminded Councillor K W Jarvis that as the accounts were in the process of being prepared this was a pre-emptive request. The Director of Strategy, Performance and Governance confirmed that the overarching audit report was already being prepared by the external auditors, for consideration at Performance, Governance and Audit Committee.

Councillor K W Jarvis proposed that an independent review around the Resources Directorate processes. This was duly seconded.

Both Directors expressed concern that this represented duplication of work given that the external auditors report, in the process of completion, would be considered at the Performance, Governance and Audit Committee. On that basis Councillor K V Jarvis withdrew his proposal.

Councillor R H Siddall, referring to the aforementioned concerns, proposed that this item be added to the Programme of Work following completion of the Council’s accounts and production of the internal report, to identify where delays occurred and any additional issues. This was duly seconded and agreed by the Committee.



### **Overview of Corporate Leadership Team and Leader of the Council Decision Making**

Councillor R H Siddall proposed that, in relation to the Overview and Scrutiny Committees Terms of Reference, 2, the Programme of Work include the above item. This would afford the Committee an opportunity to review and question decisions e.g. around new council offices etc. and potential items emanating from the new committee structure that may have fiscal impacts going forward. This was not seconded.

Following a lengthy discussion, Councillor R H Siddall suggested that a working group be formed consisting of Councillors R H Siddall, V Bell and M S Heard. The brief for this group would be to determine the relevant issues within this item of scrutiny for consideration by Committee.

### **Member Training**

Councillor R H Siddall requested that, in accordance with procedures, all Members be trained appropriately on the Overview and Scrutiny related matters to ensure Members can bring a valuable contribution to the committee.

### **RESOLVED**

- (i) that the following items be added to the Programme of Work:
  - Due Diligence;
  - Council's Accounts
- (ii) That a working group be set up to ~~review the decisions made by the determine~~ ~~issues within Overview of~~ Corporate Leadership Team (CLT) and Leader of the Council, ~~Decision Making~~ with a view to identifying items of scrutiny to be added to the Programme of Work.<sup>2</sup>

There being no further items of business the Chairman closed the meeting at 10.05 pm.

COUNCILLOR R P F DEWICK  
VICE-CHAIRMAN (IN THE CHAIR)

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<sup>2</sup> Minute 504 (31/10/19)