



**REPORT of  
THE OVERVIEW AND SCRUTINY COMMITTEE WORKING GROUP**

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to  
**OVERVIEW AND SCRUTINY COMMITTEE  
6 FEBRUARY 2024**

**MEMBER SCRUTINY ITEM REQUEST – CORPORATE PROJECT – LAND AT  
HEYBRIDGE**

**1. PURPOSE OF THE REPORT**

- 1.1 The purpose of this report is to inform the Committee of the Overview and Scrutiny Committee Working Group's (the Working Group) conclusions on this scrutiny workplan item.

**2. RECOMMENDATION**

The Committee is recommended to note the work undertaken by the Working Group to understand and clarify the various issues and points of concern raised, and by way of an outcome, endorse the Working Group's conclusions together with the findings contained in the 'lessons learned' report produced by the Project Team with a view to them influencing practice and process in relation to future corporate projects.

**3. SUMMARY OF KEY ISSUES**

- 3.1 At its meeting of the Committee on 25 April 2024 a report was received from the Working Group on this scrutiny item request submitted by Councillor A S Fluker. The request sought a review of various issues arising from the extensive history of this corporate project which was effectively closed by the Council by decision at its meeting in November 2023.
- 3.2 This project involved the potential acquisition of land by the Council with a view to providing affordable housing and generating a commercial return. The Working Group considered that it needed to seek further information to understand the various issues raised by and as a consequence of the scrutiny request, so that it could reach an informed conclusion for report to the Committee.
- 3.3 The Working Group had at that stage already reviewed a range of information and documentation relating to this project and identified further areas where additional information / clarification was required. It also noted that the project team had undertaken a 'lessons learned' workshop and the resulting report prepared was awaiting sign-off by the Corporate Leadership Team following which it could be shared with Members. The Committee therefore resolved not only to add the item to its scrutiny workplan but also refer the matter back to the Working Group for a review of the 'lessons learned' report when available, together with other outstanding related issues, and recommend further to the Committee.
- 3.4 Over a period of time, the Working Group has sought to obtain clarity on issues around how the concept of this project began, the governance associated with

various steps taken in the early stages, the true ambition of the project, the timing of the involvement of Homes England, and the engagement with Registered Providers of affordable housing during the process. Information was provided on all of these issues to the satisfaction of the Working Group.

- 3.5 The Working Group had concluded that sufficient information on the points of concern had been received for examination and that this scrutiny item should now be brought back before the Committee for a final decision. The 'lessons learned' report had been noted and, having already been shared with Members, the Committee would be invited to note that it would inform practice and process for similar projects in the future. Whilst the report recorded the things the Council did well, it set out some areas for learning as follows:

### **3.5.1 Areas for learning on future projects:**

3.5.1.1 Although the project did proceed initially on the basis of internal planning advice, it is felt that Maldon District Council (MDC) must ensure that any future development opportunities start with a robust and clearly documented assessment of site viability, taken forward via a series of 'approval gateways' overseen / agreed by both Officers and Members at each stage. The below process is recommended to ensure early identification of site viability / risks and engagement of Members:

- 1) Carry out an initial planning appraisal as to whether the Council is in a position to take forward / explore a proposal(s) for housing development in light of the Maldon Local Development Plan, the Spatial Strategy and where that development may be situated relative the settlement boundary.
- 2) Conduct a Planning Sustainability Assessment of identified site (including multiple site options (where these are available)
- 3) Develop a high-level Concept Design (in order to commence early-stage planning appraisal, land valuation and pre-app)
- 4) Land Valuation (Red Book)
- 5) Planning appraisal with key statutory consultees e.g., Essex County Council Highways and Education, Environment Agency etc.
- 6) Hold an early Pre-App with Members with a draft scheme to identify potential issues and secure a more collaborative culture between Members and Officers.

3.5.1.2 It is also felt that Members should be clear at the outset what the primary objective for any development is i.e. commercial return or policy objectives. Although it may be possible to achieve both, these objectives can conflict. A clear direction from Members on the relative importance of delivering the Corporate Plan objective of increasing the supply of affordable and temporary housing within the district may encourage further support for similar development projects and a greater appreciation of their complexities.

3.5.1.3 Although it was a deliberate strategy to use internal resource where possible to minimise costs, the use of MDC Planning Officer became complex when providing advice on its own application. It is advised that in future an external Planning Agent is used to ensure advice given is fully independent and to provide dedicated resourcing capacity. A risk remains that external advice could be in conflict with the Council's own internal planning advice and therefore access to internal planning advice via the Planning Performance Agreement (PPA) process is critical to provide steer when required in order to mitigate against this.

- 3.6 A report was brought back to the Committee at its meeting on 24 September 2024. This outlined the further discussion undertaken by the Working Group, focusing on how the project was instigated and perpetuated only to be found not to be commercially viable. Officers maintained that they had engaged with Members throughout and obtained approval to necessary important steps. This is evidenced by Council Minutes and Corporate Project Working Group meeting notes. In terms of whether the land value had been properly assessed at the outset, Officers said that it was evident from early discussions with Registered Providers that a 100% affordable scheme could have been delivered at the price the Council was asking which was advised to Members via Council. However, the alternative proposals based on the advice of the Council's Planning team (to include a mix of all four affordable tenures), ultimately proved to be unprofitable for the Registered Providers as two of the tenures would not have attracted grant funding.
- 3.7 The Committee at its September meeting debated this in detail, some Members being of the view that a deeper investigation was required to clarify the processes that were followed and to ensure that greater project governance needed to be in place in the future. It was decided however, in the light of the discussions, that the item should be referred back to the Working Group for further investigation / clarification as to the initial engagement with local landowners, and to provide a report back to the Committee which also included a range of financial milestones associated with the project.
- 3.8 The Working Group has made strenuous efforts to understand and establish clarity on the origin of this project and how it was initiated. As a result, the Working Group is able to conclude and report to the Committee as follows:
- a) the project was initiated by an Officer of the then Housing Department writing to two local landowners in 2020, as evidenced by two letters which have not been published due to their containing exempt information under the Local Government (Access to Information) Act 1985;
  - b) these two landowners were approached following advice from the Planning Department on their being known to the Council through the earlier through the earlier Local Plan Review process and the potential availability of land in a sustainable location;
  - c) the rationale for this approach was wholly justified by Officers' responsibility to seek opportunities in line with the approved Homelessness, Rough Sleeper and Housing Strategy 2018-2025, which states in particular:  
  
*"We have begun to look at new ways of working in partnership with housing associations, landowners, investors and others and will continue to do so to find out what the options are and the resources that are needed. P47"*  
  
*"We shall work with local communities, landowners and other partners to support this type of development and monitor plans alongside the identified shortfall in affordable housing throughout the District. P45"*
  - d) the initial approach was wholly founded on the need and desire to achieve the best affordable housing solution for the District and also reflected the opportunity to acquire land for development and get the best return from investment, which is clearly identified in the approved Commercial Strategy 2022 - 27. The Commercial Team staff were involved from the outset.
  - e) Matters proceeded with the one landowner who responded to approach in 2020 to the point when in July 2021 the Strategy and Resources Committee was approached to review and approve the value of the proposal and the entering into of the subsequent Options Agreement. The report to the

Committee made it clear that project would contribute to two strategic priorities:

*These proposals will have a potentially significant impact, in delivering both the Place Theme outcomes, regarding delivery of the Districts housing needs, delivering sustainable growth, and with the allocation of receipts to support the delivery of the Heybridge Flood alleviation scheme, which would also support the resilience of the District to climate change.*

*The loss of the Councils Five Year Housing Land Supply is also a significant challenge for the Council and the delivery of this site will help to address. The project will also support the Councils Performance and Value outcomes, providing a commercial income source to enable the delivery of Council priorities*

- 3.9 The Working Group also received a detailed schedule of financial milestones and commitments of the Section 106 money (ringfenced for affordable housing projects) spent throughout the course of the project, and this is at **APPENDIX A** to this report. All documents considered by the Working Group including those not available for publication due to their containing exempt information under the Local Government (Access to Information) Act 1985 are available to Members through the Council's Mod.Gov system.
- 3.10 In its further discussion, the Working Group did question whether the earlier involvement of Homes England might have been advantageous on this particular project, which was an identified 'lesson learned' by the Project Team. While noting that Homes England is primarily a funding body, no concerns over the preferred mix were identified but it later emerged that funding would not be available for two of the four housing types within the preferred mix. This affected what grant funding the Registered Providers would receive and therefore negatively impacted the sum that either of the interested Registered Providers would be willing to pay for the land. Further, a planning application for the preferred mix would have been outside of approved policy at the time, although the policy landscape was evolving. Officers advised that a number of other local authorities were having equally challenging conversations with Homes England at the time.
- 3.11 The Council engaged with two Registered Providers at the end of the process. Both presented options, one met the Councils preferred housing model but was not financially viable. The other option did not meet MDC planning policy requirements but would have given a financial return. It was difficult to understand or anticipate this until in detailed discussion with Registered Providers. The Working Group has discussed that this was a difficult risk to mitigate.
- 3.12 The Working Group has reflected that Corporate projects with investment will always carry some element of risk, and as an organisation the Council needs to take a measured approach to still encourage innovation. A suggestion in the Working Group discussion was that when releasing large chunks of funding, Committees could consider setting up gateways for a report to either a Committee or a Working Group. However, for this project a monthly Working Group with risk and spend updates is evidenced to have taken place.

## **4. CONCLUSION**

- 4.1 The Working Group has established clarity on a number of issues and in updating the Committee on this draws attention to the lessons learned from this, including those

identified in the review report undertaken by the Project Team, so that the Committee may reach a conclusion on this scrutiny item and commend outcomes to the Council. In terms of being clear on the objectives of future corporate projects at their outset, the Working Group wishes to emphasise that this is an obligation on both Members and Officers. It is considered that together with the benefits of the Project Management Office processes now in place awareness of the lessons learned will assist practice and process in relation to future similar projects.

## **5. IMPACT ON PRIORITIES AS SET OUT IN THE CORPORATE PLAN 2025 - 2028**

### **5.1 Delivering good quality services.**

5.1.1 Thorough scrutiny processes support improved performance and efficiency which in turn will contribute to the quality of services provided, and functions undertaken by the Council.

## **6. IMPLICATIONS**

- (i) **Impact on Customers** – None directly, but individual scrutiny reviews will enable the impact on customers to be assessed.
- (ii) **Impact on Equalities** – Equalities are considered as part of the reporting on review work undertaken by Officers.
- (iii) **Impact on Risk (including Fraud implications)** – Scrutiny reviews enable potential Corporate Risks to the organisation and their mitigation to be identified.
- (iv) **Impact on Resources (financial)** – Scrutiny reviews offer the potential for an assessment of financial impact to the organisation.
- (v) **Impact on Resources (human)** – Scrutiny reviews offer the potential for an assessment of any resource impact to the organisation.

Background Papers: None.

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