

**Minutes of the Scrutiny Committee meeting held on Tuesday, 22 January 2019 in Committee Rooms 1 & 2 - Deanes, Basingstoke and Deane Borough Council at 6.30 pm**

**Members of the Scrutiny Committee in attendance:** Councillor D Potter (Chair), Councillor I Tilbury, Councillor C Ashfield, Councillor R Bean, Councillor T Capon, Councillor J Cousens, Councillor R Golding, Councillor J McKay, Councillor P Miller and Councillor T Robinson

**26/18 Apologies for absence and substitutions**

Councillor Falconer sent his apologies. In his absence, Councillor Miller was appointed Vice Chair for the meeting.

Apologies were also received from the Head of Human Resources and Organisational Development who had been due to present on item 6.

**27/18 Declarations of interest**

There were no declarations of interest.

**28/18 Urgent Matters**

The Chair referred to correspondence that the committee members had received in relation to a Freedom of Information request and response, submitted to the council by a member of the public.

It was noted that the email had only been circulated to members and that officers should also be included in order to obtain complete information. It was suggested that the process fell under the remit of Law and Governance.

The Chair suggested that the Committee should seek a review of the FOI process, and a review of the particular case in relation to the fact that it appeared that an inaccurate and misleading response had initially been sent by the council to the originator of the FOI.

**Resolved:** The Committee

- Agree to circulate the matter to the Legal Services Manager; and
- Require a report detailing the FOI process, and the response history relating to the specific request for consideration by the Committee at the earliest opportunity.

**29/18 Minutes of the meeting held on 20 November 2018**

It was requested that clarification and information documents circulated in response to certain minuted queries be appended to the minutes to ensure that the information reached the public domain. This was agreed.

The minutes of the meeting held on 20<sup>th</sup> November 2018 were confirmed as a correct record and signed by the Chair.

30/18 **s106 Funds Council Motion**

Cllr Rowland, proposer of the motion, was invited to speak.

It was explained that the motion originated due to ongoing frustration at the lack of success in releasing s106 funds to local communities. The efforts of the Head of Borough Development and Implementation were acknowledged, but it was noted that there were a number of historical cases where scoping documents and agreements did not always reflect the needs of a community leading to funds being unused and reallocated elsewhere.

It was suggested that a review of historical s106 agreements be undertaken with a view to varying or releasing dormant funds, where applicable, for the benefit of local communities.

Cllr Rowland referred to a specific case within her own parish whereby as a consequence of two planning consent agreements, £74,944 of funds had been scoped and allocated to a privately owned local football club. The parish council had not been consulted in relation to the allocation, and it was thought that the football club had requested the funding towards a new club room/community hall, of which Bramley already had four. Further whilst the Bramley Neighbourhood Plan listed a range of preferred projects, none had been selected.

It was commented that the system had changed in the past few years so that members were not involved in scoping documents any more. It was suggested that the process required better understanding and possible changes.

There was agreement to pursue a review of the s106 process. It was clarified that the review would cover both urban and rural wards.

**Resolved:** The Committee

- Agree to apply to group leaders to request volunteers to form a Members Advisory Panel; and
- Agree to request a report of s106 monies focusing on both the process under which s106 agreements are drawn up and the process that manages allocation and spending.

31/18 **Scrutiny Non-Permanent Staffing Report**

The Interim HR and Organisational Development Project Manager presented the Non-Permanent Staffing Report. The report stated that at times the Council required temporary resources including agency workers, interims and consultants to deliver projects and deal with peaks in workload as well as provide specialist skills or advice on an ad hoc basis.

Monitoring of such staff is undertaken via contract, IR35 regulations and the agency

workers' directive.

Cllr Rowland, as Head of HR committee was invited to speak. Cllr Rowland expressed surprise at the number of interims in post throughout the organisation and commented that the impact on permanent staff could be quite unsettling and potentially detrimental to performance. Further surprise was expressed at the cost to the council. It was suggested that the council focus on more long term commitment to recruitment.

The Chair noted that constitutional changes passed by council in the preceding year, had excluded involvement by the HR committee in relation to any interim appointments. As a member of the Constitutional Working Party he commented that he intended to lobby for an amendment to the constitution to ensure future involvement.

The committee welcomed the report and made the following comments and further requests for information: -

- It was suggested that report item 10.4.2 should be the most important strategy for the council to adopt and develop.

The Interim HR and Organisational Development Project Manager commented that a project to review pay, benefits, grading and flexible working to ensure sector competitiveness had been scoped and agreed by SLT.

Further, a commitment to the strategy in relation to digitalisation and agile working projects was currently in progress to develop how the organisation would look in 5 years and ensure that the workforce would be fully supported to achieve the vision.

- Concern was expressed in relation to use of the term 'approximately' in item 2.2.

It was explained that whilst interim staff contracts were managed centrally, consultancy services were commissioned and invoiced as necessary by individual departments and would potentially be coded differently. Three different systems (procurement, payroll and matrix contract management), monitored and processed the different services which could occasionally lead to inaccuracies in actual spend throughout the year, but would result in a defined year end figure.

- It was explained that central government held a formal Shortage Occupation List and that accountancy and planning both featured which affected the public sector as a whole.
- It was clarified that in the past 3 years the council had spent approximately £7 million on specialist advice and consultancy fees, and £3 million on agency fees.

It was suggested that it would be useful to compare the total amounts with

benchmark figures. It was explained that to do so would require clear definition and parameters for a benchmark with which to compare.

It was suggested and agreed that HR committee take this matter forward.

- It was agreed that a comparison between the agency and interim costs detailed in Appendix 1 as opposed to established costs be provided for the committee. It was noted that whilst established positions would be accurate actual costs, non-establishment positions would be quantified on the basis of accepted industry norms.
- Concern was voiced by the Chair of the HR Committee that the recent appointment to the position of Interim Executive of Borough Development and Deputy Chief Executive could potentially result in a year's employment, given that advice had been received that recruitment for the permanent position could not commence until after the May elections to allow for full council ratification.
- In response to a query, it was explained that the council had just completed an organisation wide staff engagement survey, and was in the process of analysing the results. It was also stated that a review of exit interviews was being undertaken. This was perceived to be a major area that required revision and improvement.

**Resolved:** The Committee

- Note the report; and
- Request that the above actions be undertaken and delivered.

### 32/18 **BDBC Dilapidations Procedure January 2019**

The Interim Property Manager presented the BDBC Dilapidations Procedure report. It was noted that the council's property portfolio comprised just under 800 properties with a mixture of community assets, direct let investments and ground lease properties.

It was noted that 70% of property income derived from ground leases. The report detailed four potential remedies available to enforce obligations under ground leases, and their requisite advantages and disadvantages.

Cllr Kim Taylor was invited to speak. Cllr Taylor had prepared a list of printed questions which were subsequently permitted, with the caveat that this was a unique occurrence, to form an addendum along with eventual responses to these minutes (please see Appendix 1).

- It was explained that there would be a facility to record annual inspections on the new software system, but that there had been no formal recording to date. Consequently, records would be available in the future, but there was nothing historically.

- There has been constant dialogue with the head lessee of the Ice Rink and with the sub-tenant due to the sensitivity and specialised nature of the facility. It was clarified that dialogue would automatically always be with the head lessee as the contractual partner.

It was explained that there was ongoing dialogue due to the substantial repair costs, which were not the council's responsibility. Further, there was a difficult balance to achieve between progressing the work and maintaining the asset.

It was suggested that a progress report on the Ice Rink which was expected by Community Environment Partnerships committee in June, should incorporate responses to the questions raised in Appendix 1.

- It was noted that all property inspections currently took place externally and was suggested that under the permissions of the Jervis v Harris Clause, a 5-year internal inspection should also take place.

The Interim Property Manager commented that such additional inspections would require significant resource. It was clarified that the majority of the portfolio was industrial sheds, whereby generally the external state of the building would reflect the internal state. It was explained that a pragmatic industry centred approach was taken to inspections due to not wishing to incur significant administration costs to the council.

- It was queried whether there were any obligations on head lessees to apply due diligence when sub-letting.

It was explained that this would not be present in older ground leases but would in newer contracts. It was quantified that a landlord would generally only enforce such an obligation if the proposed sub tenant was bankrupt or not of sufficient covenant strength.

- It was noted that community buildings throughout the borough were run by charitable trusts, which did not tend to generate much income. It was queried whether the council could examine the vulnerability of such trusts to ensure assistance and protection in the future.

The Interim Property Manager responded that there were 28 community halls within the borough and that responsibilities were split so that the charitable trusts were responsible for all internal decoration, repairs and heating costs and the council for structural, external and landscaping obligations. It was confirmed that work was currently underway to investigate ways to assist charitable trusts with their liabilities to ensure that community halls were sustainable in the future.

The Chair thanked the Interim Property Manager for the comprehensive report.

**Resolved:** The Committee

- Note the report; and

- Request that the above items be actioned.

### 33/18 **Review of work programme**

The Committee reviewed and agreed its work programme, with the following comments:-

- It was reported that the Leader of the Council had commented that as there were 14 constituent local authorities that formed the LEP, logistically it would be problematic for each individual authority to scrutinise and expect LEP attendance. As an alternative, it was suggested that an all member workshop with the LEP be arranged at BDBC. The committee agreed to this proposal.
- Due to a lack of appetite, it was suggested that the Member Officer Protocol review be removed from the work programme.
- An update from the four review groups was requested.
- Members agreed that they would prefer a detailed s106 review rather than attempting to rush a report in time for the next meeting.
- Cllr Cousens queried whether Cllr Robinson had invited a representative of Network Rail and South West Trains to a Scrutiny meeting. No work had been undertaken on this matter and Cllr Cousens volunteered to assist Cllr Robinson with the matter.
- It was agreed that the Chair would determine the feasibility of holding a March meeting once there was a clear understanding of the reports and updates that would be available for review.

The meeting ended at 8.10 pm.

**Chairman**