

AUDIT AND GOVERNANCE COMMITTEE

Tuesday, 24 March 2015

Present: Councillor Len Horwood (Chairman)
Independent Members: Mr Hedges, Mrs Hough, Mr Lewis, Mr Quigley and Mr Segall Jones
Town/Parish Council Members: Councillors Mrs Codd and Mackenzie
Borough Members: Councillors Dawlings, Scott and Webb

Officers in Attendance: Rich Clarke (Head of Audit Partnership (Mid Kent Audit)), Maria Burton (Democratic Services Officer), John Scarborough (Head of Legal Partnership), Darren Wells (Director, Grant Thornton), Lee Colyer (Finance Director (s151 Officer)), Ian Cumberworth (Internal Audit Manager), David Candlin (Head of Economic Development), Jane Lynch (Head of Planning) and Ade Oyerinde (Audit Manager, Grant Thornton)

APOLOGIES FOR ABSENCE

AG37/14 Apologies for absence were received from Councillors Hall, Lockhart, Patterson and Ward.

DECLARATIONS OF INTEREST

AG38/14 No declarations of interest were received.

NOTIFICATION OF VISITING MEMBERS WISHING TO SPEAK (IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 18):

AG39/14 No notifications of any visiting members wishing to speak had been received.

MINUTES OF THE MEETING OF THE AUDIT AND GOVERNANCE COMMITTEE DATED 9 DECEMBER 2014

AG40/14 The minutes of the meeting of the Audit and Governance Committee dated 9 December 2014 were submitted.

RESOLVED – That the minutes of the Audit and Governance Committee dated 9 December 2014 be approved as a correct record.

UPDATE ON MEMBER COMPLAINTS

AG41/14 Mr Scarborough presented a report updating members on complaints received under the Code of Conduct. He explained that since the last meeting of the Committee in December, one new complaint had been received that was currently being investigated. Mr Scarborough stated that two ongoing complaints were due to go to hearings in April. He explained that although the new regime of member complaints had been in operation since 2012, these would be the first hearings under the new system.

Mr Lewis, referring to the papers for the upcoming hearing, stated that it was clear that a lot of work had gone into that case, probably thousands of hours. He expressed his concern that if hearings became more commonplace, then the amount of officer time spent on investigations would increase. Mr Scarborough explained that he shared Mr Lewis' concerns, but that officers worked hard to resolve matters wherever possible without having to hold a

hearing. He added that where possible, investigations relating to parish council members would be conducted within Mid Kent Legal Services in order to minimise costs.

The Chairman reminded the Committee of the way the previous system had worked, which had required a lot of officer time.

Mr Hedges noted that the investigation time would have a cost to TWBC, and therefore to taxpayers, and asked if there was a way of passing the cost to the offending members or councils. Mr Scarborough explained that he had looked into that option, but that it had not been feasible as legislation did not allow it. However, he added that the cost of any training suggested as a resolution by a panel should really sit with the council that the member belonged to.

Mr Lewis stated that he felt that mediation should be the first priority for any investigation, as it was cheaper, quicker and more effective. Mr Scarborough agreed, but explained that in the case of a member of another council, the panel could recommend actions, not compel them.

Parish Councillor Mackenzie noted that while there were unfortunate costs, code of conduct investigations and hearings were necessary to ensure good behaviour from members.

RESOLVED:

That the update on complaints received under the Member's Code of Conduct be noted.

STRATEGIC RISK REVIEW

AG42/14 Mr Cumberworth presented the report on the strategic risks belonging to Mrs Lynch and Mr Candlin. He brought to the Committee's attention changes to the risk matrix in the report. Mrs Lynch invited questions from members regarding her risk: Inspector decision which challenges housing target vs housing supply.

Mr Quigley asked if, in the approach to the General Election, Mrs Lynch had seen any policies from parties that changed the risk. Mrs Lynch explained that she had not seen any such policies directly, but stated that she knew that site allocations were changing and had taken legal advice.

Mr Hedges asked if the Local Plan, due to run until 2026, had been rewritten recently. Mrs Lynch stated that there was a Core Strategy, which had been written in 2010, and that a public consultation on the Site Allocation document had closed earlier that week. This document was now being considered by the Planning Inspectorate.

In response to a question from Councillor Scott, Mrs Lynch explained that she hoped that the new Site Allocation document would enable the risk to reduce over the next six months, but that it was hard to predict.

Mr Candlin was invited to present on the first of his risks: unable to maximise economic opportunities and resolve infrastructure issues. He explained that the Local Growth Fund had created a competitive environment for funding for infrastructure projects, and that this aspect to the risk had been added to the

risk register. The Committee was informed that £1.75 million had been secured for improvements to the A26, but that the bid for the A264 Pembury Road had been unsuccessful. Mr Candlin stated that authorities across Kent had to compete for funding for projects.

Councillor Webb commented on rumours of new retailers entering Tunbridge Wells. Mr Candlin explained that there were numerous active retail interests at any time, but that there were few vacancies in the main shopping areas. He stated that the Council supported businesses adding to the local economy.

Mr Hedges stated that parking issues were impacting on businesses, adding that he felt that the Council's attitude was to move parking on-street. He raised the issue of pay-on-entry in car parks and asked for an update on the parking policy. Mr Candlin explained that he was no longer responsible for parking, but that the Council had made changes, such as pay-by-phone and the pay-on-exit trial.

Mr Quigley noted that the controls and mitigations appeared to be significant in managing the risk, and asked how close they were to completion. Mr Candlin explained that following preliminary work, the dualling of the A21 would start in April, with completion by December 2016, and that improvements to North Farm would be complete in summer 2015.

Mr Candlin presented the second of the risks under his responsibility: Development Programme. He explained that the Council had a £1million budget for feasibility studies on sites currently owned by the Council. The Committee's attention was brought to the additional control to mitigate against the risk. Mr Candlin stated that the Council had utilised links with Kent County Council to bring in additional staff, and that the Council had taken ownership of the Southborough Hub project.

The Chairman asked if the formation of a Development Company would reduce the risk. Mr Candlin informed the Committee that a proposal to establish a Development Company had been approved by the Finance and Governance CAB and would go to Cabinet. He explained that the Company would take over properties held by the Council, with the aim of managing the properties more effectively, although new risks would be created.

Mr Lewis noted that at past meetings, the Committee had queried the level of professional expertise, and asked if the Council now had a sufficient level of expertise. Mr Candlin stated that a key post had been filled, and that the Council would be relying on consultants for certain areas. In response to a question from Mr Lewis, Mr Candlin explained that the Development Programme was a TWBC project, but that it involved work with other authorities and parish councils.

Councillor Webb asked if the Council was establishing a Development Company to remove the Right to Buy from tenants. Mr Candlin explained that the properties concerned were non-residential. He stated that currently properties were licensed, and that setting up a company would allow shorthold tenancies to be established. He added that at present, planning permission held by the Council for Council-owned properties could not be transferred if a property was sold, but that by setting up a Development Company, permission could be transferred.

Mr Hedges asked if assets held by the Development Company would be subject to Capital Gains Tax if they were sold. Mr Candlin explained that it was not the Council's intention to sell the assets concerned and that the Council would have the freehold. He stated that if assets were sold, they would be subject to CGT.

Councillor Scott noted the high impact of the risk, and asked how Mr Candlin expected the risk to change over time. Mr Candlin explained that the risk of the programme as a whole was likely to remain the same, but that the risks and impacts of individual projects would be different and vary over time.

RESOLVED:

- 1) That the strategic risk management report be noted and the arrangements for managing risks be approved.
- 2) That the Director of Finance be invited to present his risks at the next meeting.

CERTIFICATION OF GRANT CLAIMS 2013/14

AG43/14 Mr Oyerinde presented the report of the Certification of Grant Claims. He explained that this certification regarded claims for Housing Benefit, and that at the previous meeting the claim had been amended but not qualified. Mr Oyerinde added that the external auditors were not intending to vary their fee as set by the Audit Commission.

Councillor Horwood noted that the amendment had been minimal, considering the amounts involved in the claims.

RESOLVED:

That the findings of Grant Thornton's report be noted.

INTERNAL AUDIT OPERATION PLAN

AG44/14 Mr Clarke presented the report on the Internal Audit Operation Plan, which had been changed from previous years to give more detail of the development of the plan. He explained that all areas of the Council would be visited over the four-year period, with some areas being visited more than others, dependent on risk. The process of visiting departments would be risk-led, considering strategic, financial and fraud risks. Assurances would be taken from external groups, such as Lexcel for the Legal department, meaning that these areas would not be investigated as much as others. Mr Clarke informed the Committee that this was the first time the internal audit was explicitly setting out how the work it undertakes is planned and arranged.

Mr Quigley asked about the possibility of managers of teams failing to meet audit recommendations being invited to the Committee, and if this would happen often. Mr Clarke explained that the quarterly reports had not shown issues, so did not expect this to happen regularly.

Mr Quigley expressed his concern that information security would not be investigated for three years, as he felt that there were considerable risks associated with that area. Mr Clarke stated that information security would be looked at throughout the plan, and that the flexibility of the plan meant that it could be changed if any issues arose. He explained that the Council was

aware of security issues, but that the level of review represented the risk level.

Regarding the chargeability targets in the report, Mr Lewis stated that he would have preferred to see higher chargeability for more senior positions. Mr Clarke explained that the chargeability levels were as expected, adding that non-chargeable activities included creating the audit plan, meeting officers and other productive activities.

Mr Lewis noted that Parking was being investigated for 10 days in 2016/17 and 10 days in 2018/19, which was the same amount as the Museum, and commented that Parking was likely to be more valuable. Mr Clarke stated that Parking was being investigated twice, while the Museum was being looked at once in the period. He added that Parking had been investigated in 2013/14 and 2014/15, and that financial implications had been taken into account when drawing up the plan. Mr Clarke explained that non-financial risks, such as reputational risk, were also considered when making the plan.

Mr Hedges noted that some areas with history of issues with internal audit were not being looked at for a number of years, such as section 106 agreements and the Crematorium. Mr Clarke explained that the plan took into account recently completed follow up work, and that a report on section 106 had been given three weeks ago. He stated that he was satisfied that the risks were being managed.

Parish Councillor Codd agreed with Mr Hedges' concerns regarding the Crematorium. Mr Cumberworth explained that the Crematorium had been subject to a review, but that there had been significant improvements since 2012/13. Mr Clarke added that following the audit review of the Crematorium, there had been an external review which was satisfied with the service.

In response to a question from Parish Councillor Codd, Mr Clarke explained that the agenda item regarding the annual revision of the Audit Charter had not been added to the agenda and would be heard at the next meeting.

RESOLVED:

- 1) That the operational plan for 2015/16 be approved
- 2) That the longer term plan up to 2018/19 be approved in principle, subject to annual reviews
- 3) That responsibility for managing operationally the content of the audit plan be delegated to the s151 Officer, in conjunction with the Head of Internal Audit and subject to regular review.

EXTERNAL AUDIT PLAN 2014/15

AG45/14 Mr Wells presented the report on the External Audit Plan for 2014/15, explaining that the plan sought to provide context for the external audit. The plan noted the challenges for the Council and for the sector more generally, highlighting major risks. The methodology and fees were also included in the plan.

Mr Hedges asked if the guidelines from the FCA regarding supplier contracts affected the Council. Mr Wells explained that he did not expect any effect, but that the risk of fraudulent transactions was included in the report. He stated that there was a lack of incentive to record fraudulent transactions in

local government, so the guidelines did not require additional work. Mr Wells added that the external auditors would monitor income to prevent fraud.

RESOLVED:

That the audit plan for 2014/15 be agreed.

ROYAL VICTORIA PLACE - LEASE MANAGEMENT

AG46/14 Mr Candlin presented the report regarding the management of the lease of Royal Victoria Place. He explained to the Committee that although the report had been listed in the agenda as exempt, this was not the case, so the item would be held in public.

Mr Candlin explained that the Committee had received a number of reports on Royal Victoria Place in recent years, with the last update received in September 2014. He stated that there had been progress on the Deed of Variation and that the Council was awaiting action from Hermes.

He explained that Council officers met with Hermes on a quarterly basis, with less formal meetings more regularly. Mr Candlin stated that information on rental income and lets had been included in the Property Transaction report, and informed the Committee that in the six months from July, nine unit had been let or re-let.

Mr Lewis noted that this progress was encouraging.

RESOLVED:

That the ongoing management of the Royal Victoria Place lease be noted.

FUTURE WORK PROGRAMME 2015

AG47/14 The Committee's work programme was presented for members' information.

Councillor Horwood informed the Committee that a recommendation for a new Parish Member, to take the place of the outgoing Parish Councillor Codd, would be going to Full Council.

RESOLVED – That the work programme be noted.

Councillor Horwood thanked the outgoing members of the Committee for their work.

NOTE: The meeting concluded at 7.20 pm.