

AUDIT AND GOVERNANCE COMMITTEE

Tuesday, 5 March 2013

Present: Councillor Len Horwood (Chairman)
Independent Members: Greene, Hedges, Lewis and Segall Jones
Town/Parish Council Members: Councillors Mrs Codd and Mackenzie
Borough Members: Councillors Poile, Rook, Rusbridge, Scott, Stanyer and Ward
(Vice-Chairman)

Officers in Attendance: David Candlin (Head of Economic Development), Adam Chalmers (Democratic and Community Engagement Manager), Lee Colyer (Head of Finance & Governance (Section 151 Officer)), Ian Cumberworth (Internal Audit Manager), Paul Cummins (Legal Services Manager/Monitoring Officer), Jonathan MacDonald (Director of Development and Environment), Wendy Newton-May (Democratic Services Officer), Richard Smith (Audit Manager, Grant Thornton), Keith Trowell (Group Manager, Legal Services and Deputy Monitoring Officer) and Darren Wells (Director, Grant Thornton)

Other Members in Attendance: Councillors Dr Hall, Jukes, McDermott and Scholes
 Dr Hall, Jukes, McDermott and Webb

APOLOGIES FOR ABSENCE

AG30/12 Apologies for absence were received from Councillor Hall and Mr Hedges.

DECLARATIONS OF INTEREST

AG31/12 No declarations of interest were received.

NOTIFICATION OF VISITING MEMBERS WISHING TO SPEAK (IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 8):

AG32/12 The Chairman welcomed Mr Wright to the meeting, the newly appointed Independent Person. Mr Wright provided the Committee with details of his relevant experience, which included his previous position as Chairman of Maidstone Borough Council's Standards Committee.

Councillor Dr Hall had registered to speak on item number 6(A) – Merger of the Two Area Planning Committees.

MINUTES OF THE MEETING OF THE AUDIT AND GOVERNANCE COMMITTEE DATED 21 NOVEMBER 2012

AG33/12 The minutes of the meeting of the Audit and Governance Committee dated 21 November 2012 were submitted for members' approval.

With regard to minute AG26/12, under '*funding streams*', the Committee was advised of a correction to the penultimate paragraph, which had been amended to read:

"Mr Colyer confirmed that part of Government funding was dependent on new homes being built. The New Homes Bonus Scheme was funded by taking a top slice from local government funding control totals. Therefore failure to build sufficient numbers could result in further reductions to this Council's government grant to fund New Homes Bonus for those areas that are building

more new homes.”

RESOLVED – That the minutes of the Audit and Governance Committee dated 21 November 2013 be approved as a correct record, subject to the amendment shown above.

REVIEW OF GOVERNANCE ARRANGEMENTS

AG34/12 Mr Chalmers presented a report which summarised the outcome of the review of the new governance arrangements which had been undertaken by the Chairman of this Committee.

The report informed members of the review process, which had involved feedback questionnaires at meetings of Cabinet Advisory Boards, discussions with the Leader, the Chairman of the Overview and Scrutiny Committee, and the leaders of the other political groups, as well as a general invitation for all members to feedback on the new arrangements.

Mr Chalmers advised the Committee that the review had indicated that members were generally satisfied with the new arrangements and the outcomes of the Cabinet Advisory Board meetings – especially as they provided backbenches with the opportunity to feed in to the decision making process prior to the final decision being made by Cabinet. It was considered that the new system was an improvement; had increased transparency and enabled efficient and inclusive decision making that allowed for greater participation by non-executive members, as well as supporting Cabinet members.

It was noted that the issue of chairmanship had proved less problematic in practice than was anticipated at the beginning of the new arrangements, and it was suggested that the Cabinet members could continue to chair the meetings in accordance with the appointments made at Annual Council.

Mr Chalmers updated members of two practical amendments that had been suggested during the review stage, namely:

- 1) The options for Cabinet Advisory Boards be amended to include ‘another, reason as decided by the meeting of the CAB’ – this would replace the existing wording of: ‘3.4 - another reason, the nature of which must be cited’. It was felt that this would make it clear that the Cabinet Advisory Boards could make recommendations to the Cabinet.
- 2) There should be a reduction in the number of reports submitted to Cabinet Advisory Boards that are to note.

RESOLVED –

- (1) That the outcome of the review of governance be supported;
- (2) That the governance arrangements at the Council should remain unchanged;
- (3) That the options available for Cabinet Advisory Boards should be updated to reflect the findings detailed in paragraph 2.1 of the report; and

- (4) That there should be a reduction in the number of reports for noting submitted to Cabinet Advisory Boards.

MEMBERS' ANNUAL REPORTS

AG34/12A Mrs Newton-May submitted a report which considered the future processing of the Members' Annual Reports. The Committee was advised that, following the results of the Members' Survey undertaken last year, the majority of members indicated that they were in favour of the Annual Reports continuing and requested that the reporting period change to January – December to prevent clashing with the busy period in the run up to elections.

The report suggested that the Annual Reports covering the municipal year 2012/13 be completed as in previous years (i.e for the period May 2012 to April 2013) to ensure continuity. Following this members would be requested to complete a seven month interim Report for the period May to December 2013. The reporting period would then change on a permanent basis from January – December for 2014.

RESOLVED –

- (1) That the Members' Annual Reports continue to be completed;
- (2) That an interim Report be completed for May 2013 – December 2013; and
- (3) That the reporting period for the Members' Annual Reports changes to January – December, starting from January 2014.

MERGER OF THE TWO AREA PLANNING COMMITTEES

AG35/12 Mr Freeman presented a report which recommended establishing a single wide Borough Planning Committee to replace the present Area and Joint Committees, in order to achieve service efficiencies and consistency of decision making. It was noted that if this new arrangement was approved significant amendments would be required to be made to the Constitution.

The advantages for adopting a single planning committee model were listed for members' information in the report. It was also suggested that the public speaking arrangements be brought back in line with the other Council Committees, where the total time limit allocated to the public was 12 minutes (two objectors and two supporters each having three minutes). Additionally a Parish/Town Council representative and ward councillors would be able to speak on an item in accordance with the existing Constitution rules.

Members were advised that the proposal suggested that speakers should not be subjected to questions from members following their statements. Therefore all questions or issues for clarification should be directed to the case officer or other officers present at the meeting.

Following a consultation period with Parish/Town Councillors and Borough Councillors all comments received were set out in Appendix F to the report, along with the responses provided by Mr Freeman. Mr Freeman advised that one further response to the consultation had been received, following the

publication of the agenda, from Paddock Wood Town Council, which raised concern that speakers would not be given the opportunity to answer questions following their three minute speech. In addition the Town Council considered that some members on the new committee would not know the area particularly well and that, as the meetings would be starting later and cover a larger area, there was a danger that decisions would be rushed.

Mr Freeman advised that these issues had been previously raised by others and his responses were included in Appendix F.

Mr Lewis advised the Committee that the Constitutional Review Working Party had considered and fully supported the proposal at its meeting on 30 January 2013. He highlighted some of the issues raised by the Working Party, such as suggesting that a further explanation of the proposal be sent to Parish/Town Councils to prevent the spread of unnecessary concerns, and inviting any comments in order for them to be addressed at this Committee meeting. The Working Party agreed that a 16-member committee, with a quorum of 4, was sufficient and the inclusion of 2 substitute members was unnecessary.

Councillor Dr Hall had registered to speak on this item and expressed her concern for the rural areas. She considered that at least one third of the proposed committee would be lacking in knowledge and understanding of rural affairs and issues, such as farming. She suggested that, if approved, the Chairman of the amalgamated Committee should be from a rural area.

Councillor Horwood referred to the Full Council decision made on 20 February 2013 which agreed the budget for this proposal. Mr Trowell explained that this was simply to agree the reduce the allowance scheme by one Chairman, not to agree the proposal itself.

Councillor Rusbridge stated that he had been in favour of one planning committee for a long time, however he appreciated those concerns raised regarding the site visits and start time. He acknowledged that a 2pm or 5.30pm start time was not always suitable for some people, but felt that a later start time would not be beneficial as meetings would then be likely to continue late into the evening.

Turning to site visits, Councillor Rusbridge considered that it was more valuable if visits took place on the actual day of the meeting as it focused members' minds, and some members might not be able to commit the time if held on another day.

In response to Councillor Dr Hall's statement, Councillor Rusbridge disagreed that Western members would not understand rural issues. He referred to Bidborough, Speldhurst and Ashurst, which were all in the Western area and all contained farming areas. He did not consider it to be a relevant argument to say that a member from the Western area could not be chairman.

Councillor Ward informed the Committee that he had been a member of Western Area Planning Committee, as well as Chairman of Eastern, for a number of years and supported the proposal for one planning committee. New members joined both committees every year and, after suitable training, were expected to make decisions on the facts in front of them based upon planning issues (with expert officers present to advise), therefore the process

was transparent. He felt that the Chairman should be the most suitable, competent person to conduct an efficient meeting.

Councillor Stanyer agreed with Councillor Ward, and added that the number of applications dealt with by the planning committees was small compared to that dealt with by officers under delegated authority. He considered that geographical barriers between the east and the west was irrelevant and the rural issues were important to all members.

Councillor Rook expressed his concern at the timing of the meetings if they started late evening. He mentioned the number of planning applications being presented to committee, and considered that if the meeting continued for a number of hours the level of debate could suffer as a result. He suggested that speakers would need to be restricted so the meeting was timely and the quality of deliberations consistent.

Councillor Horwood reminded members that a review of the new arrangements was proposed after a year.

Mr Mackenzie considered that reducing speakers to two objectors and two supporters was too restrictive. He suggested that the Chairman should have delegated authority to allow more if appropriate. He also felt that members should have the opportunity to question speakers to obtain a full understanding of their issues.

Mr Freeman responded by stating that, although having one committee would mean more items to be considered on the agenda, the balance should be managed effectively by the Chairman. He reassured members that the Chairman would still have discretion to increase the number of speakers if necessary, but the proposed total number of four kept the speaking rules in line with the Council's other committee meetings. With regard to questioning the speakers, it was felt that this could be daunting for members of the public who were not planning experts and that these questions should be put to the officers present at the meeting instead. In response to the debate about the start time of the meetings, Mr Freeman advised that 6pm appeared to be the most convenient start time for the public, but he stated that this was still up for debate.

Members had no objection to the suggestion that the rule for parish/.town council speaking should be reworded to ensure clarity, therefore would read 'A representative of the agreed Parish/Town Council view'.

Councillor Ward supported a 4.30pm start time, as he felt that members of the public could get time off work for a one-off meeting if sufficient notice was given.

Mr Trowell advised members that the start time of all Council meetings was the decision of the Chief Executive.

A vote was taken on each of the recommendations in turn. All but recommendation 2(b) in the report was carried, which related to the amended speaking rules.

RESOLVED –

- (1) That Full Council be recommended to approve the changes to Part 3 of the Constitution as set out in Appendix B to the report to include the following:
 - a. The move to a single planning committee of 16 members (quorum 4 members)
 - b. The removal of a requirement for 2 substitutes;
 - c. The amendment of other minor changes consequent upon the move to a single planning committee; and
 - d. The transfer of the paragraphs relating to the 'procedures at meetings' to Part 4 of the Constitution in line with the other Rules of Procedure applicable to Council meetings;
- (2) That Full Council be recommended to approve the changes to Part 4 of the Constitution, as set out in Appendix C to the report, to include the addition of a new section 4/4 Procedure Rules only applicable to Planning Committee;
- (3) That Full Council be recommended to approve the minor change to Part 5 of the Constitution, as set out in Appendix D to the report;
- (4) That Full Council be recommended to approve the changes to Part 6 of the Constitution, as set out in Appendix E to the report (to update the protocol in line with changes to the Code of Conduct and declarations of interest);
- (5) That Full Council be recommended to amend the 2013-2014 timetable to allow the single planning committee to take place on Wednesdays at 6pm on the dates previously scheduled for the Western Area Planning Committee;
- (6) That a review of the new single Planning Committee arrangements be undertaken by the Audit and Governance Committee after 12 months; and
- (7) That authority be delegated to the Monitoring Officer, in consultation with the Portfolio Holder for Planning and Transportation, the two current Area Committee Chairs and the Head of Planning Services to make such further minor revisions to the Constitution as are necessary.

UPDATE ON MEMBER COMPLAINTS

AG36/12 Mr Cummins reported that no complaints had been received since the last meeting of the Committee.

RESOLVED – That the verbal update be noted.

CONSTITUTIONAL REVIEW WORKING PARTY - FEEDBACK FROM MEETING DATED 30 JANUARY 2013

AG37/12 Mr Trowell advised that the feedback from the Constitutional Review Working Party (CRWP) meeting dated 30 January 2013 related to the review of governance arrangements and the merger of the two planning committees, and both had been discussed earlier in the meeting.

RSOLVED – That the feedback from the CRWP be noted.

TUNBRIDGE WELLS REGENERATION COMPANY - UPDATE

AG38/12 Mr Candlin presented a report updating members on the cessation agreement by which the regeneration joint venture was finished and the Tunbridge Wells Regeneration Company (TWRC) closed.

The report advised members that, as part of the agreement, the Council agreed to pay John Laing £250,000. Upon winding up the company, the Council was granted all Intellectual Property Rights and was entitled to freely use all documents produced by the Company which related to the Borough of Tunbridge Wells including designs, plans, surveys, and research documents.

It was noted that the cost to the Council of setting up the TWRC, additional costs during the life of the Company, the cost of closing the Company and legal costs was £658,413 plus officer and member time.

Mr Candlin spoke of the legacy of the TWRC, and the good work undertaken by the Company which had enabled the Council to effectively market and dispose of the former Council Offices in Cranbrook for care home development.

In response to a question asked by Councillor Poile, Mr Candlin provided a breakdown of the figures involved in each element of the TWRC. In respect of the cost of the officer time, Mr Candlin could not provide an exact figure as all his staff were involved in regeneration matters and specific times linked to the work of the TWRC had not been recorded.

Councillor Rook referred to the press release that had been issued that week on the future of the Cranbrook Council Office site, and stated that this was extremely good news for local residents. He asked whether the Borough Council was supporting the Community Hub financially and was advised by Mr McDonald that several meetings had taken place between the Borough and Parish Council representatives and the Community Hub. However, this was now a matter for the Community Hub to take forward to decide what would be contained in the building and how it was financed.

Councillor Ward, speaking as a former member of the TWRC, advised that the Council was now in a better position and on the right track to utilise its assets.

Councillor Jukes was then invited to speak on this item. He updated members on the situation with the Cranbrook site, which had now been sold to McCarthy & Stone who were keen to use the site for later living apartments for private sale. He advised that this was the best deal for the residents and for the Council. He acknowledged that the Council had gained valuable experience by working with the regeneration company, but it was now time to move forward on future projects and increase revenue for years to come.

Mr Greene asked whether formal written evaluations had been recorded, as good governance practice. He also asked for an assurance that a compulsory purchase order for the cinema site would not be made without full financial consideration.

Mr McDonald reminded the Committee that two years ago the Council made a bid for the cinema site. He gave an assurance that, should the Council go down that route again (which he stated would be very unlikely), then it would do so with due diligence. He advised that the Council was in a very good position when comparing the level of commitment with the likely capital receipt.

Mrs Codd suggested that the cost involved in ending the joint venture and dissolving the company should have been quoted in the press release. In response Councillor Jukes advised that when he made the announcement at the Full Council meeting he also provided the figures.

Mr Segall Jones questioned whether the Council would consider a similar joint venture in the future and was advised by Councillor Jukes that there were too many problems and pitfalls and, although done with the best intentions, lessons had been learnt from the experience.

RESOLVED – That the report be noted.

INTERNAL AUDIT OPERATIONAL PLAN 2013-14

AG39/12 Mr Cumberworth submitted a report which set out the one-year Internal Audit Operational Plan for 2013-14. The purpose of the report was to meet the requirements of the Public Sector Internal Audit Standards (effective from 1 April 2013) in relation to audit planning and to help to discharge the Section 151 Officer's responsibility for financial control; as well as informing Management Team and Members of the planned audit work to be undertaken in 2013/14.

Members were advised that the majority of the work of Internal Audit was identified in the three-year strategic audit plan which took full account of organisational objectives and priorities. The one-year operational plan was largely an extract from the strategic plan, updated to reflect changed priorities and new risk areas.

It was noted that the plan currently showed 26 audit projects based on the available auditor resources.

Mr Lewis questioned the estimated number of audit days that had been identified for some of the subjects shown in Appendix D to the report, for example 10 days for the rent deposit guarantees. Mr Cumberworth explained that this area was not covered on a regular basis and the number of guarantees in the last year totalled approximately 70 to 80. With regard to the ice rink, Mr Cumberworth advised that 12 audit days had been estimated because this was a new corporate project involving cash handling/contracts and had not been examined previously; therefore the number of audit days was an estimate. However this could be revisited if necessary once the control arrangements had been assessed.

RESOLVED – That the Internal Operational Plan for 2013/14 be approved.

PUBLIC SECTOR INTERNAL AUDIT STANDARDS

AG40/12 Mr Cumberworth presented a report which provided a summary of the new internal audit standards (which were effective from 1 April 2013) and detailed how these would be implemented for the Mid Kent Audit Partnership.

The differences compared with the previous CIPFA standards were highlighted for members in the report and represented a change of emphasis for public sector internal audit, which would go some way to aligning public sector audit with the private sector but with additional requirements for the public sector where necessary and appropriate. A complete copy of the Standards were attached as an appendix to the report.

RESOLVED – That the new Public Sector Internal Audit Standards and the action that will be taken to implement them for the Mid Kent Audit Partnership, which included Tunbridge Wells Borough Council, be noted.

CERTIFICATION OF GRANT CLAIMS 2011/12

AG41/12 Mr Colyer submitted a report that summarised the outcomes of Grant Thornton's work to certify the grant and subsidy claims that the Council submitted during 2011/12.

It was noted that Grant Thornton undertook work to certify two primary grant claims with a combined value of £84,455,000, namely Housing and Council Tax Benefit Scheme and National No-Domestic Rates Return. They concluded that the Council had performed well in preparing claims and returns, with all claims reported to have been submitted on time and with good supporting papers.

It was noted that the Council's NNDR (Business Rates) return was certified without amendment or qualification, whilst the Housing and Council Tax Benefit Subsidy Claim was amended and an Action Plan of one action had been recommended and agreed.

Mr Wells, Director of Grant Thornton, advised the Committee that there were no issues he needed to raise specifically for their attention. Councillor Horwood asked about the error that had occurred relating to the Housing and Council Tax Benefit Subsidy Claim and was advised by Mr Smith, the Audit Manager for Grant Thornton, that this related to an isolated case involving a non-housing revenue account.

RESOLVED – That the findings of Grant Thornton's report, as set out in Appendix B to the Committee report, be noted.

EXTERNAL AUDIT PROGRESS REPORT

AG42/12 Mr Smith, the Audit Manager for Grant Thornton, presented a report which provided the Committee with an update from the external auditors on progress in delivering their responsibilities, and gave reassurance that public funds were being correctly accounted for and safeguarded. Grant Thornton's paper also included a summary of emerging national issues and developments that were relevant to the Council.

It was noted that all Grant Thornton's final reports, after the conclusion of each piece of work, would be published on the Council's website.

Members were advised that early discussions had taken place with officers around the implications of the following emerging accounting issues:

- Trigger of the Scheme of Arrangement of Mutual Municipal Insurance
- Accounting for the Mortgage Guarantee Scheme; and
- Winding up of the Tunbridge Wells Regeneration Company.

Mr Smith explained to the Committee that future work would involve accounting for joint arrangements and partnership working, such as the IT arrangements.

Mr Mackenzie asked about one of the 'challenging questions' sent out in Appendix B to the report which referred to giving consideration to 'pooling'. Mr Smith explained that new arrangements were in place for collecting business rates. Mr Colyer clarified that this Council was not intending to pool business rate income with other councils at the present time, but it could be addressed in the future.

In response to a further question asked by Mr Mackenzie regarding the Council's tipping point, Mr Smith advised that risks had increased due to the economic challenges and therefore Councils were required to demonstrate that they were addressing those risks. He added that this Council had taken early action a number of years ago and therefore were not as close to risk as others.

RESOLVED – That the progress report be noted.

FUTURE WORK PROGRAMME 2013

AG43/12 The Committee's work programme was presented for members' information.

Mr Colyer mentioned that traditionally an informal training session had been organised for the Committee at the beginning of the new municipal year. However, as there had been no material changes to the accounting procedures, it was suggested that this session was not necessary.

RESOLVED – That the work programme be noted.

NOTE: The meeting concluded at 7.45 pm.