

AUDIT AND GOVERNANCE COMMITTEE

Tuesday, 21 November 2017

**Present: Councillor Horwood (Chairman)
Councillors Barrington-King (Vice-Chairman), Hamilton, Neve, Ms Palmer and
Podbury, independent members Mrs Hough, Mr Quigley and Mr Shiels, Parish
Councillor Coleman and Town Councillor Henshaw**

Officers in Attendance: John-Jackson Almond (Assembly Hall Theatre Director), William Benson (Chief Executive), David Candlin (Head of Economic Development and Property), Lee Colyer (Director of Finance, Policy and Development), Jane Clarke (Head of Policy and Governance), Rich Clarke (Head of Audit Partnership), Keith Trowell (Team Leader (Corporate Governance) and Deputy Monitoring Officer) and Mike McGeary (Democratic Services Officer)

Other Member in Attendance: Councillor Moore

Member of Public in Attendance: Dr Robert Banks (registered speaker)

Others in Attendance: Peter Robinson (CIPFA), Ade Oyerinde and Darren Wells (both Grant Thornton)

APOLOGIES FOR ABSENCE

AG40/17 Apologies for absence were received from Councillor Nuttall.

DECLARATIONS OF INTEREST

AG41/17 There were no declarations of interest made, within the provisions of the Code of Conduct for Members.

NOTIFICATION OF VISITING MEMBERS WISHING TO SPEAK

AG42/17 The Democratic Services Officer advised that there had been no other members of the Council who had registered their wish to address the Committee, within the provisions of Council Meetings Procedure Rule 18.

MINUTES OF THE MEETING OF THE AUDIT AND GOVERNANCE COMMITTEE

AG43/17 The minutes of the meeting of the Audit and Governance Committee dated 12 September 2017 were submitted.

RESOLVED – That the minutes of the Audit and Governance Committee dated 12 September 2017 be approved as a correct record.

CONSIDERATION OF CIVIC COMPLEX - DECISION REPORT

AG44/17 David Candlin, the Head of Economic Development and Property, summarised the key elements of a comprehensive report on the extensive work that the authority had undertaken up to and during RIBA Stage 3 (Developed Design), towards the provision of a new theatre and offices and an associated underground car park. Mr Candlin advised that the Committee had been sent a copy of the full public report. He added that this had also been considered by all three Cabinet Advisory Boards, with a recommendation to support; the details of how each Advisory Board had

voted were outlined for the Committee.

It was noted that the Committee was being asked to consider – and comment on – the two independent reviews into the governance arrangements the Borough Council had followed in reaching the current stage. These had been undertaken by (i) the Chartered Institute of Public Finance and Accountancy (CIPFA) – Appendix X in the report pack – and (ii) Mid-Kent Audit Services – Appendix Y.

Dr Robert Banks had registered to speak on this item. He referred to some of the cautions referred to in the CIPFA report, such as (i) it was unusual to see such a significant economic development investment being undertaken “...in the current climate of financial austerity...” and (ii) the financing costs of the loan would amount to approximately 20% of the Council’s net revenue budget. He felt that the biggest risk factor for the Council was that negative Revenue Support Grant would impact significantly on the proposed funding strategy set out; he also considered that forecast ticket sales for the theatre were over-optimistic.

Dr Banks drew attention to section 6.6.1 of the CIPFA report, where they had recommended that the Council needed to “evidence value for money from an overall economic perspective, linking to Council objectives and financial benefits”. He asked how the Committee would be able to ensure that this happened.

Peter Robinson, who had been one of the two CIPFA team members conducting this review, summarised his report. He said that CIPFA had been asked to review the project to date, which did not include examining the report which was being made to the Full Council on 6 December, where the decision would be made as to whether to proceed with the project.

Mr Robinson emphasised how he and his fellow reviewer had been particularly impressed with the vision, ownership and commitment to the project shown by the Council’s senior councillors and officers, the savings strategy, the prudent financial planning and the involvement of the Finance Director – an aspect which he said was not always the case from their experience elsewhere. Mr Robinson also said that he and his fellow reviewer had been impressed with the consultants, the retained architect and the in-house property team.

Mr Robinson drew attention to a number of conclusions the review team reached and aspects they wished to see incorporated into the report to be submitted to the Full Council. These included the need for a ‘consolidated business case’, the need for a ‘transition budget’ and the building up of this budget. He added that, as the scheme did not pass a ‘value for money’ test, it was important to set out the social and economic benefits that would be delivered as a result of the ‘place-shaping cultural investment’ that was the basis of the project.

Mr Robinson said that the review had concluded that, although the level of borrowing was high, it was considered reasonable in comparison to the authority’s asset base. He added that the level of debt per head of population would place the authority within the average range, but that this would decrease over the period of the loan.

In summary, Mr Robinson said that the key issues for the Council were that it

needed to: (i) be fully aware of the project's risks and be able to control them; and (ii) ensure it had the organisational capacity to deliver the scheme (through widening the responsibility and avoid any 'single points of failure'). He added that, in conclusion, the review was recommending the inclusion of a number of specific matters which the CIPFA team wished to see incorporated into the report to be submitted to the Full Council, as set out in section 6.6.1.

Members of the Committee were asked to comment on the CIPFA report and raised the following points.

Independent member Mr Quigley said that he was pleased with the report. He felt that the recommendations set out were of such significance that Full Council needed to know that the issues raised had been taken into account within the report they were due to consider on 6 December.

Mr Quigley added the following observations, apart from the above basic conclusion: (i) he asked whether there was time to include how to measure the cost/benefit analysis ahead of the Full Council meeting; (ii) he would expect to see details of 'optimum bias', showing how the authority might deal with increases in costs as the scheme proceeded; and (iii) similarly, he wished to see a plan of how the Council would address the removal of 'single points of failure' in its project management.

Lee Colyer, the Director of Finance, Policy and Development, addressed the issues raised. He said that CIPFA had been invited to undertake their review following the receipt of the draft RIBA Stage 3 reports. Mr Colyer added that CIPFA had said that the timing of their review had been sensible as it had allowed the Council to take into account any comments that they made.

Mr Colyer confirmed that all of the matters raised in the CIPFA review had been incorporated into the comprehensive report which was being submitted to the Full Council on 6 December. On the specific aspects raised, he confirmed the following: (i) he had based his funding strategy on the premise that the authority would face negative Revenue Support Grant for the foreseeable future; (ii) site visits and other evidence had provided a good level of reassurance that the forecast ticket sales for the new theatre were both realistic and achievable; (iii) the authority was in a good position to accommodate the level of debt planned, especially within the context of the value of its asset holdings; (iv) the proposed funding strategy and its transitional budget would see a reserve beginning to build up, which would provide a further contingency provision; and (v) the recommended consolidated business plan included all of the recommendations suggested by CIPFA.

Mr Colyer advised that AECOM – other specialists who had reported on the scheme – were one of Europe's leading cost consultancy firms. He said that they had produced detailed costings, including contingencies, in line with best practice.

Mr Quigley was keen to know whether the CIPFA review team was satisfied with the action the authority had taken since their report had been submitted. He added that: (i) he would like to see proper 'document control' in place (e.g. the dating of each report to be clearly labelled); and (ii) 'benefits realisation' set out, in other words who would be responsible for ensuring the forecast benefits would be delivered.

Councillor Hamilton asked what level of business investment might occur in the new theatre, based upon the experiences of the Marlowe Theatre in Canterbury. Mr Colyer said that a prudent approach had been adopted in the financial modelling and an assumption made that the scheme could be delivered with no external funding in place. He added that efforts to attract external funding would begin once there were tangible aspects in place. Mr Colyer also said that he fully expected a charitable trust to be set up, as well as a Friends group, both of which could attract significant support throughout the area.

Councillor Neve drew attention to one element of the proposed funding strategy. He asked whether it was expected that the Weald Information Centre would close during the period up to 2022, leaving no such service in the Eastern part of the Borough. Mr Colyer explained that this was not the case. He advised that the estimated £40k savings set out would be achieved through the provision of the service at a new community hub in Cranbrook, which would be appointment based.

Councillor Neve supported the project and felt that the financial case set out was based upon (a) sound evidence and assumptions and (b) an excellent track record of financial management under the control of Mr Colyer.

Councillor Barrington-King welcomed the CIPFA report and said that he was reassured by the review team's findings. He added that he had been disappointed by those members of the Council who had not taken up the opportunity to attend numerous briefings on the scheme provided for councillors, which had been both informative and instructive.

In thanking the CIPFA team for their work, Councillor Barrington-King urged the authority to move ahead with the project without delay.

The Committee then received a summary of the review which had been conducted by the Mid-Kent Audit team. Rich Clarke, the Head of Audit Partnership, explained the approach taken by the Partnership team, which had focused on the project management process which the authority had followed to date.

Mr Clarke said that the 'draft' report which the agenda papers had initially included had been confirmed in the final version with a 'strong' assurance rating given. He explained that this rating applied to the controls in place in respect of project management, governance and budgetary control, all of which he said addressed the risks associated with the scheme.

The Chairman thanked all contributors to the full debate and asked for any final comments on the findings set out in the two reviews.

Mr Quigley sought an assurance that the recommendations set out in the CIPFA review had been fully incorporated into the Full Council report for 6 December. He felt that this was an essential condition.

Mr Robinson said that, while his brief did not include an examination of the report which would be presented to the Full Council, he had expressed his satisfaction with those elements he had been shown by Mr Colyer, adding that the authority had a very strong and competent officer group in charge of this project, which should provide a very high level of reassurance for the

Committee. Mr Colyer added that he was able to confirm that all of the recommendations set out by the CIPFA team had been incorporated into the Full Council report.

RESOLVED – That the CIPFA and Mid-Kent Audit reviews and findings be noted and both review teams be thanked for their work and reassurances provided.

STRATEGIC RISK REPORT

AG45/17 Lee Colyer, the Director of Finance, Policy and Development, presented a risk management report, which described the authority's arrangements for managing strategic risk. The report provided an update on the evaluated threat level, as well as the controls in place, for each of the 10 risks identified.

William Benson, the Chief Executive, was introduced to the Committee. Mr Benson was the 'officer risk owner' for scenarios 3 ('resident engagement'), 5 ('national policy changes in the short term that impact negatively on Tunbridge Wells Borough Council'), 7 ('being unable to meet expectations within resources') and 9 ('not managing control and change effectively – staff, management and political').

Mr Benson summarised the key aspects of each risk scenario. On the 'sickness monitoring' element of 'impact on morale' under risk scenario 7, Councillor Neve expressed concern that the Council was not being sufficiently compassionate in some cases, a view which the Chief Executive noted.

With risk scenario 9, Mr Benson said that the authority was moving towards a position where this could be removed from the strategic risk register, adding that it remained for the present because of recent Mid-Kent Improvement Partnership transfers.

Under this risk scenario, independent member Mr Shiels welcomed the reassessment of staff resources linked to the proposed civic development. He expressed concern that some individuals could become very stretched as the scheme moved forward to its next stages.

The Chairman acknowledged the point, adding that, once a decision had been taken by the Full Council on 6 December as to whether the scheme progressed or not, it was vital that the resource reassessment began.

Mr Benson advised that, if the Full Council agreed to move to the next stage, the focus would turn on to the planning application required to be made and determined; he added that, as the project moved towards the occupation of the new offices, the staffing structure would need to be examined. With all stages, Mr Benson said, he would ensure that the strategic risk register was updated.

RESOLVED – That the risk management report and arrangements for managing risk be noted.

INTERIM INTERNAL AUDIT AND ASSURANCE REPORT

AG46/17 Rich Clarke, the Head of Audit Partnership, presented an interim, mid-year report on the work undertaken by the Mid-Kent Audit Service, based upon the audit plan agreed by the Committee in April this year. The update report also

set out how the service was continuing to conform with the Public Sector Internal Audit Standards and associated Code of Ethics.

Mr Clarke advised that, from the audit project findings to date, there were no matters of broader concern that he wished to draw to members' attention, as they had all resulted in positive assurance ratings. He summarised each of the report's main sections and invited member questions.

Councillor Podbury drew attention to page 39 of the agenda, where the interim report set out the outcome of a governance review into each of the Partnership authorities' transparency arrangements. She asked for clarification of the content of the outcome, which had been set out in table format.

Mr Clarke said that the main issue for Tunbridge Wells was a need to assemble and present the relevant 'compliance monitoring' information on a central webpage, rather than the existing disjointed format.

Councillor Hamilton drew attention to the IT Disaster Recovery review. She asked whether there was a need to make recommendations aimed at raising its opinion rating from 'sound' to 'strong'. Mr Clarke advised that a 'sound' rating was perfectly acceptable, adding that the issues identified by the review related to the need to synchronise the IT Disaster Recovery and the Business Continuity plans.

Independent member Mr Quigley highlighted the 'exam success' performance results, which showed a significant drop in 2017/18 compared with previous years. He asked if this was significant. Mr Clarke said that this was essentially down to a re-calibration of exam marking by the Institute of Internal Auditors, who now required an 80% pass rate rather than 50% as previously.

Councillor Barrington-King thanked Mr Clarke and his team for maintaining such a high standard of review work. He added that he was very pleased to see that the Partnership was continuing to show its strength in terms of the resilience and rigour it brought to audit work.

RESOLVED – That the progress against the 2017/18 Internal Audit and Assurance Plan and findings so far be noted.

ANNUAL AUDIT LETTER 2016/17

AG47/17 Lee Colyer, the Director of Finance, Policy and Development, presented the Annual Audit Letter for 2016/17, as compiled by the authority's external auditors, Grant Thornton. He advised that this confirmed an unqualified audit opinion in relation to the statement of accounts. However – as previously reported – because a local government elector had raised an objection in respect of expenditure on the civic development programme, the external auditors had not been able to conclude the value-for-money conclusion.

Darren Wells, the Director of Grant Thornton, said that the attached Annual Audit Letter was a summary of a more detailed report which existed. He confirmed that the value-for-money verdict would follow, once he had been able to complete his investigation into the objection raised.

Independent member Mrs Hough asked when it was anticipated that the investigation might be completed and a verdict issued. Mr Wells said that

there had been a significant amount of background research necessary and that he had also undertaken some discussions with the authority's officers. He also said that he was required to share the result of the investigation with Public Sector Audit Appointments Limited – a subsidiary of the Local Government Association – before advising the authority; Mr Wells estimated that he would be able to provide a final verdict within four weeks.

Councillor Barrington-King sought clarification that the value-for-money verdict was being delayed because of the single complaint. Mr Wells said that the external auditors needed to determine whether the issues raised by the objector had a material impact on the governance arrangements of the authority.

Parish representative Councillor Coleman asked whether it was right to consider the issue raised by the local government elector as a formal objection. Mr Wells explained that the elector's correspondence led him to believe that he had to investigate the matter and thus he had to view it as an objection.

RESOLVED – That the Committee approves the Annual Audit Letter for 2016/17.

EXTERNAL AUDIT PROGRESS REPORT

AG48/17 Lee Colyer, the Director of Finance, Policy and Development, introduced a report from the authority's external auditors, Grant Thornton. The report provided an update on the progress made in delivering the auditor's responsibilities to the Borough Council and of accounting changes and national issues affecting local government.

Mr Colyer drew attention to the section in the report which explained the revised external audit services that would take effect in 2018, under the provisions of the Local Audit and Accountability Act 2014. He expressed the hope that the authority would benefit from the estimated savings anticipated from 2018/19. Mr Wells noted the point and advised that it would be the Public Sector Audit Appointments Limited who would set the fee level.

RESOLVED – That the external audit progress report be noted.

UPDATE ON COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT

AG49/17 Keith Trowell, the Team Leader (Corporate Governance) and Deputy Monitoring Officer, presented an update report on complaints received under the authority's Members' Code of Conduct, for the period ending 10 November 2017.

Mr Trowell advised that, since the meeting of the Committee held on 12 September, one new complaint had been received. He advised that the complaint had been considered by the Monitoring Officer and the Council's Independent Member, who had concluded that the alleged conduct did not amount to a breach of the Code of Conduct. No further action would be taken, he added.

RESOLVED – That the update on complaints received under the Members' Code of Conduct be noted.

ANNUAL REVIEW OF COMPLAINTS 2016/17

AG50/17 Jane Clarke, the Head of Policy and Governance, presented a report on formal complaints received by the Borough Council during 2016/17 under the Corporate Complaints Procedure; she also reported on the decisions of the Local Government Ombudsman in respect of those complaints which had been escalated to that level during the year.

Ms Clarke began by reminding members that the authority had operated a three-stage complaints procedure throughout 2016/17, which had been reduced to two stages from June this year.

Ms Clarke advised that a total of 436 formal complaints had been made about Council services during 2016/17, which she advised was lower than the number for the last two years. She added that 74% of complaints had been responded to within the timescales set out, which was noticeably below the performance target of 90%. Ms Clarke said that this performance level had led to changes in both the procedure and resource level, the results of which were beginning to show a significant improvement in the current year.

The report included a breakdown of which services had been the subject of formal complaints, as well as details of compensation paid out during 2016/17, amounting to £938.50.

In respect of those complaints which had been referred to the Local Government Ombudsman – 18 in total – it was noted that none had needed to be progressed towards formal investigation. A copy of the Ombudsman's 'annual review' letter was appended to the report.

Councillor Podbury asked if there had been many complaints regarding the temporary closure of the household refuse and recycling centre. Although household waste and recycling was collected by the Borough Council, it was acknowledged that it was Kent County Council that operated the disposal centre.

Councillor Barrington-King, who was also a County Councillor, said that the centre would be re-opening on 11 December and added that he felt the communications effort by both councils had been very effective.

He added that the complaints report needed to be seen within the context of the population of the Borough. He considered that the Borough Council provided well-managed services across the board and he congratulated the staff involved.

Councillor Hamilton asked whether the 'out-of-hours dog service' related to dealing with stray dogs, which Ms Clarke confirmed was the case.

RESOLVED –

- (1) That the customer feedback and issues raised during 2016/17 – and the lessons learned as a result of this feedback – be noted; and
- (2) That the Annual Review letter published by the Local Government Ombudsman at Appendix A be noted.

FUTURE WORK PROGRAMME

AG51/17 The Committee's work programme was presented for members' information.

RESOLVED – That the work programme be noted.

URGENT BUSINESS

AG52/17 The Democratic Services Officer advised that there were no additional items for the Committee's consideration which had arisen since the publication of the agenda.

DATE OF NEXT MEETING

AG53/17 It was noted that the next meeting of the Committee would take place on Tuesday 3 April 2018 at 6.30pm.

NOTE: The meeting concluded at 8.20 pm.