

**TUNBRIDGE WELLS BOROUGH COUNCIL
OVERVIEW AND SCRUTINY COMMITTEE**

MINUTES of the meeting held at the Council Chamber, Town Hall, Royal Tunbridge Wells, TN1 1RS, at 6.30 pm on Monday, 22 November 2021

**Present: Councillor Patrick Thomson (Chairman)
Councillors Bland, Chapelard, Everitt, Goodship, Hamilton, Hayward, Hickey, Morton
and Pound**

Officers in Attendance: Stephen Baughen (Head of Planning Services), Jane Clarke (Head of Policy and Governance), Lee Colyer (Director of Finance, Policy and Development (Section 151 Officer)), Peter Hockney (Development Manager), Claudette Valmond (Head of Legal Partnership and Interim Monitoring Officer) and Mark O'Callaghan (Scrutiny and Engagement Officer)

Other Members in Attendance: Councillors Dawlings

APOLOGIES FOR ABSENCE

OSC42/21 Councillors Hills and Ms Palmer were not present.

DECLARATIONS OF INTEREST

OSC43/21 There were no disclosable pecuniary or other significant interests declared at the meeting.

DECLARATIONS OF A PARTY WHIP

OSC44/21 There were no declarations of the use of the party whip.

NOTIFICATION OF PERSONS REGISTERED TO SPEAK

OSC45/21 Councillor Dawlings was in attendance as the relevant portfolio holder in respect of item OSC50/21.

Mr David Fenwick and Mr Charles Lloyd were in attendance presenting on behalf of the Tunbridge Wells Anti-Aircraft Noise Group in respect of item OSC49/21.

There were no members of the public or Visiting Members registered to speak.

MINUTES OF THE MEETING DATED 10 AUGUST 2021

OSC46/21 No amendments were proposed.

RESOLVED – That the minutes of the meeting dated 10 August 2021 be approved as a correct record.

MINUTES OF THE MEETING DATED 27 SEPTEMBER 2021

OSC47/21 No amendments were proposed.

RESOLVED – That the minutes of the meeting dated 27 September 2021 be approved as a correct record.

ITEMS CALLED-IN

OSC48/21 There were no items which had been called-in.

GATWICK EXPANSION

OSC49/21 The committee received a presentation from Mr David Fenwick and Mr Charles Lloyd speaking on behalf of Tunbridge Wells Anti-Aircraft Noise Group. The presentation set out details of expansion plans by Gatwick Airport which were of concern to local residents.

Debate included:

- Full Council on 6 October 2021 had resolved to oppose the expansion of Gatwick Airport.
- The Council should make its view clear by responding to the consultation and remain alive to further developments.
- Councillor McDermott was a member of the Gatwick Noise Management Board and would provide an ongoing liaison.
- The Council had publicised the consultation through its email newsletter.
- The Council was not a member of Gatwick Area Conservation Campaign.
- Statistics used by Gatwick had been provided by Oxera, an economics and finance consultancy group. Consultants working on behalf of opponents to the expansion had challenged some of the calculations made, particularly around carbon-pricing.
- Elements of government policy on noise pollution could be characterised as opaque. Key elements were clear, for example, that noise must be reduced and mitigated as capacity grows. Gatwick's proposals did not achieve this.
- The Council was formulating its response to the consultation and this would be submitted in time.
- It was the role of the Committee to consider matters of concern to the community (Cabinet Advisory Boards only dealt with existing items going to Cabinet).

RESOLVED – That the relevant Full Council motion should form the basis of the Council's response to the consultation.

BUDGET SETTING 2022

OSC50/21 The committee received a verbal presentation from Councillor Dawlings on the Budget setting process.

Debate included:

- The Council must set a balanced budget. This year it was necessary to draw funds from reserves as income was reduced due to Covid.
- There was uncertainty in the governments approach of local funding.
- Failure to agree a budget would have significant implications and the setting process was designed to address disagreements at an early stage.

- The Council had a good record on agreeing a balanced budget, the last time it had to draw on reserves was in 2010/11 when Revenue Support Grant was reduced to zero.
- Implications of not agreeing a budget would include difficulties in collecting Council Tax, not only for this Council but all precepting authorities including County, Parishes and Police and Fire services.
- Drawing on reserves was unsustainable.
- The Council received most funding through fees and charges which were particularly affected by the downturn in the economy. The Cabinet took the view that it would be irresponsible to cut £2m from services immediately rather than using reserves to weather temporary circumstances.
- Reserves were kept of the purpose of weathering uncertainty.
- The draft budget already included projected increases in staffing costs and contract costs.
- Tunbridge Wells had the lowest Council Tax rate in Kent and the budget did not propose to increase the rate above the 2 per cent threshold.
- Projects such as The Amelia Scott were funded through the separate capital budget.

RESOLVED – That the presentation be noted.

PLANNING ENFORCEMENT

OSC51/21 The Committee received a presentation from Mr Peter Hockney, Planning Development Manager and Mr Stephen Baughen, Head of Planning Services. The presentation set out details of how planning enforcement was undertaken by the Council.

Debate included:

- The service applied a proportionate approach to enforcement. The scale of the individual breaches within a 'planning unit', the cumulative scale of the breaches and the overall impact of those breaches on the community would be taken in to account when accessing a case.
- The weight given to a particular factor would be based on the planning considerations rather than who made the representation.
- The Council maintained close working relationships with the town and parish council who often were first aware of issues.
- A high number of enforcement cases were determined with no further action. Training for Parishes was provided but it was not for parishes to predetermine whether action would be taken.
- The most common reports of breaches were that building with permission were not being built in accordance with the plans and, secondly, that neighbours were undertaking work without permission.
- Victim surcharges were paid to the court.
- The Local Enforcement Plan 2010 was due to be updated and its publicization may contribute to reduce the number of erroneous complaints.
- The services was about to receive an internal audit the findings from which would be taken into account in revising the Local Enforcement Plan.

- The Council had less than three full-time equivalent enforcement officers. Whilst a greater resource would enable more enforcement work, senior officers believed the balance was right. The team was responsive and able to take action where necessary. Support from planning officers was also available.
- Resources were constantly monitored to ensure they remained as efficient as possible and undertaking the most appropriate work. Enforcement accounted for 11 per cent of the Planning budget.
- The Council was only able to recover its legal costs in pursuing a case in court. Enforcement officer time was not recovered unless there was a proceeds of crime element in the conviction. In such cases a third went to the Crown, a third to the Court and a third to the investigating authority.
- The enforcement decision-making process would include an initial investigation of both the specific complaint and the wider context. If regularisation through a planning application could be achieved such an invitation is made. If a planning application was not submitted the enforcement officer would compile a dossier of evidence and make a recommendation whether it was expedient to pursue. The decision would be made by the manager or principal planning officer (the same authority level as for delegated planning decisions). Approximately 10-20 of 350 cases are determined to be not expedient. Most cases resulted in a planning application being submitted.
- Mid Kent Legal Services represented the Council in court.
- Mid Kent Legal Services also reviewed any Enforcement Notices to be issued. This was an additional stage used at Tunbridge Wells which ensured the robustness of the process.
- Non-compliance with an Enforcement Notice was a criminal matter.
- Decisions to prosecute were made on the merits of the case rather than budget considerations. Legal costs were recoverable on successful cases.
- The Council had recently reallocated resources to monitor the trigger points for the payment of section 106 agreements and was now more proactive in collecting due funds.
- People who complained did receive an explanation for the perceived lack of enforcement action where there was no breach and the complaints procedure existed for those who disagreed with the decision. Officers signposted the complaints procedure and were often quoted as recommending such action when a complaint was received.
- Greater explanation could be provided through the Local Enforcement Plan but it would be difficult to provide a comprehensive list of potential scenarios whilst maintaining a user friendly document.
- The Local Enforcement Plan would be reviewed internally and was expected to be achieved within existing resources. A draft would be consulted through the Planning Policy Working Group ahead of approval by Portfolio Holder Decision.
- The Plan must be compatible with national planning policy but reflected the unique approach and priorities in Tunbridge Wells.

RESOLVED – That the presentation be noted.

COMMITTEE STATEMENT OF PRINCIPLES

OSC52/21 A draft Statement of Principles was presented for information. Feedback was invited ahead of further consideration at a future meeting.

WORK PROGRAMME

OSC53/21 The Work Programme was presented for information.

A further update from the Poverty Task and Finish Group including the response from Cabinet on the Task and Finish Group's interim report would be presented at a future meeting.

URGENT BUSINESS

OSC54/21 There was no urgent business for consideration.

DATE OF THE NEXT MEETING

OSC55/21 The next meeting was scheduled for Monday 17 January 2022.

NOTE: The meeting concluded at 9.05 pm.