

## **BUSINESS AND TRANSFORMATION SCRUTINY PANEL**

**THURSDAY 15 OCTOBER 2020 AT 4.00PM**

**PRESENT:** Councillor Bainbridge (Chair), Councillors Alcroft, Allison, Mrs Birks, Mrs Bowman, Dr Tickner, Mitchelson and Paton.

**ALSO**

**PRESENT:** Councillor J Mallinson, Leader  
Councillor Ellis, Finance, Governance and Resources Portfolio Holder

**OFFICERS:** Town Clerk and Chief Executive  
Corporate Director of Economic Development  
HR Advisor  
Development Manager  
Overview and Scrutiny Officer

### **BTSP.58/20 APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of the Corporate Director of Finance and Resources and the HR Manager.

### **BTSP.59/20 DECLARATIONS OF INTEREST**

There were no declarations of interest submitted.

### **BTSP.60/20 PUBLIC AND PRESS**

**RESOLVED** – It was agreed that the items of business in Part A be dealt with in public and Part B be dealt with in private.

### **BTSP.61/20 MINUTES OF PREVIOUS MEETINGS**

**RESOLVED-** 1) It was noted that Council, at its meeting on 8 September 2020, received and adopted the minutes of the meeting held on 23 July 2020. The Chair will sign the minutes at the first practicable opportunity.

2) That the minutes of the meeting held on 3 September 2020 be approved as a correct record.

### **BTSP.62/20 CALL IN OF DECISIONS**

There were no items which had been the subject of call-in.

### **BTSP.63/20 UPDATE ON ATTENDANCE MANAGEMENT TASK AND FINISH GROUP**

The HR Advisor submitted an update on the Task and Finish Group established to review the Council's Attendance Management Policy (RD.31/20).

The HR Advisor reminded the Panel of the purpose and membership of the Task and Finish and reported that the Group was due to meet again to discuss the draft policy and manager's and toolkit.

The Task and Finish Group Members felt that the Group had worked well with Officers to produce a clear supportive Policy.

In considering the report Panel Members supported the change in emphasis in the Policy to a supportive one and were encouraged that the Unions had actively engaged in the production of the Policy.

In response to questions the HR Advisor clarified that any future policy updates would include Member and Union engagement and training on the new Policy would be rolled out to managers to ensure attendance management was being dealt with in a consistent and clear manner.

RESOVLED – That the Update on the Attendance Management Task and Finish Group (RD.31/20) be noted.

## **BTSP.64/20 CORPORATE PEER CHALLENGE – FOCUS ON SCRUTINY**

The Overview and Scrutiny Officer submitted report OS.21/20 which outlined the key findings of the Corporate Peer Challenge in respect scrutiny activity and outlined the Council's responses thus far.

In considering the report Members raised the following comments and questions:

- What would a 'strong, Member led work programme' look like and how different would it be to the way Scrutiny operated currently?

The Overview and Scrutiny Officer explained that a Member led work programme would develop over time as Members began to take a stronger more robust approach to challenging reports. Members may consider items which they thought were important as their role as community champions and could ask for items that they considered to be missing from the work programme. In terms of how the Panel's work would add value to those areas, that would be explored with either the Overview and Scrutiny Officer or an Officer from the relevant service area in advance of items being included on the Work Programme.

- The current Business and Transformation Scrutiny Panel work plan graph showed that the Panel did not undertake partnership work, could this be introduced as part of the commercialisation work?

The Overview and Scrutiny Officer responded that the same five sub-headings within the graph had been used for each Panel and showed that partnership scrutiny fell more comfortably with the other Panels.

The Chair agreed that the Panel's had a largely a monitoring role with respect to scrutiny and acknowledged Panel's desire to move towards more challenging and policy influencing scrutiny. Referring to the suggestion in the report that the Panel set up a Commercialisation Strategy Task and Finish Group, he indicated that this may be an opportunity for the Panel to engage in partnership working.

A Member supported the setting up of the Task and Finish Group and agreed that it may provide opportunities for partnership working. He felt that the Panel could take a lead on identifying area where partnership working could add value to the Panel's work. Moreover, a number of reports submitted to the Panel sought Members' appraisal of work already undertaken, were as more value could be added if the Panel's input was sought at an earlier stage.

In relation to setting up a Commercial Strategy Task and Finish Group Members made the following suggestions: that local business leaders be invited to participate and, that it be

undertaken in the new year, due to the Panel already being involved in a Task and Finish Group on Attendance Management. The Chair agreed the suggestions.

Another Member noted that the LGA were currently keen to advance Climate Change on the scrutiny agenda, along with other regional scrutiny bodies. It was felt that the Council was, in comparison to some other authorities, further on in that work. Furthermore, the recent Sickness Absence Task and Finish Group, suggested that Members were leading the scrutiny process and working in policy development.

- A Member commented role of this Panel was different to the other Scrutiny Panels as it had a greater internal focus within the authority. In terms of expanding policy development work, he suggested that the Executive be approached to identify areas of policy that would be developed in the coming year and discussion be held as to how the Panel may be involved in that work. He further suggested another possible area of work for the Panel: the impact of Covid 19 on how the Council had operated.

In response to a question from the Chair about which other local authority meetings could be viewed to be understand how scrutiny operated in other Councils, the Overview and Scrutiny Officer undertook to compile a list of those who operated within similar structures.

- The Scrutiny Chair Group had determined that the number and constitution of Panel not be considered as part of the Peer Challenge Work, given the current undertakings in respect of local government reorganisation, a Member questioned whether those aspect of scrutiny did need to be considered.

Another Member proposed that the matter be referred back to the Scrutiny Chairs Group. The proposal was seconded, and the Panel indicated its agreement.

RESOLVED – 1) That a Commercialisation Strategy Task and Finish Group be set up in early 2021.

2) That the impact of Covid 19 on the Council's operations be added as an item to the Panel's Work Programme.

3) That the Panel refer the issue of incorporating the number and composition of Scrutiny Panels as part of the Peer Challenge work to the Scrutiny Chairs Group.

4) That the Overview and Scrutiny Officer compile a list of other local authority scrutiny panels virtual meetings for Members to compare different approaches to scrutiny.

## **BTSP.65/20 ALLOCATION OF SECTION 106 FUNDS**

The Development Manager submitted report (ED.35/20) which set out the background to Section 106 Agreements (S106). The report outlined: The National Legislative and Policy Context (including the Town and Country Planning Act 1990 and The Planning Act 2008); the process used for creating Section 106 Legal Agreements; Contributions; Monitoring, and Risks.

In considering the report Members raised the following comments and questions:

- Did the process allow for pre-application discussion with locally elected representatives such as Parish or City Councillors?

The Development Manager explained that in terms of major developments (defined in the Carlisle District Local Plan 2015-30 as 10 or more dwellings), applicants were required to carry out community consultation which may identify potential capital projects which could be funded through a S106. These were open to the public and elected representatives and participating in the consultation did not preclude the submission of objections once an application had been formally submitted to the Council.

The process was well used, and in some cases developers would revise their plans based on the consultation responses received. The Development Manager noted that it was difficult for Members who sat on the Development Control Committee to take part in that process, however, all electoral wards of the Council were now served by three Councillors. In the event that funding was required it would be more appropriate for Councillors not on that Committee to engage in discussions with the developer or Planning Officers on the matter.

The Chairman responded by asking how Ward Members could best advise Planning Officers on capital projects they felt were needed in their area, and would wish to include in a S106 prior to the submission of a formal planning application.

The Development Manager advised that, in order for an item to receive funding from an S106 it needed to meet the prescribed legal tests of: necessary to make the development acceptable in planning terms; directly related to the development; fair and reasonably related in scale and kind to the development. Each application was decided on a case by case basis in the context of local and national planning policy, therefore a "wish list" of items was not feasible. The Development Manager and the Principal Planning Officer through their processing of major applications and communications with Members had a good understanding of areas of work wanted in a particular Ward. The Panel was advised that, some funding contributions secured by a S106 were released when particular trigger points were hit, as such it could be some time after the commencement of development that monies were made available.

A Member responded that communication from the Planning Department to Members regarding applications likely to generate a S106 was important, as in his experience, developers did not usually contact Ward Members at the pre-application stage.

In relation to Parish Council's responding to consultations on applications, a Member commented that often they responded only to the particulars of the proposed scheme, rather than identifying potential areas for a S106 contribution.

The Development Manager acknowledged the Member's comments and said he would consider how to engage Parish Councils more fully in suggesting potential items for a Planning Obligation. He worked closely with Cumbria Association of Local Council who were the overarching body for Parish Council, and indicated he would consider providing a briefing to that organisation.

- A Member noted a List of Planning Applications was circulated to all Members of the Council, he asked if it would be possible for that document to indicate applications that would likely be subject of a S106?

The Development Manager undertook to consider the format of the List to see how this information was able to be incorporated.

A Member commented that she wished to know at the earliest opportunity about applications likely to be subject of a S106 and asked the best way to do this.

The Corporate Director felt it was important the Members were involved in the dialogue when a S106 was being set up and undertook to consider the most effective format for that, suggesting a webpage may be appropriate.

The Chairman suggested that perhaps some training for Members on the issue of S106s may be arranged or an Informal Council briefing held so that all Members of the Council understood the process.

The Finance, Governance and Resources Portfolio Holder responded that he felt an Informal Council Briefing would be a useful way to engage with Members of the Council to explain the S106 process to them. In addition, training for Members on the application process would be useful, as well as a way for tracking planning applications as they were progressed.

In response to a question from a Member regarding the non-delivery of items agreed as part of a S106, the Development Manager set out the legal basis upon which a developer could challenge an agreement and alter its terms.

- Was it possible for S106 monies to be banked so that a collection of contributions may be used to fund a larger capital project?

Included within S106s were pay-back clauses which required the Council to return monies to a developer in the event that they were not spent on the stipulated project: usually the time scale for those was between 5 and 10 years.

- How would the current white paper on planning reform affect S106s?

There were currently two methods of securing Planning Obligations: S106 and Community Infrastructure Levy (CIL), the current white paper proposed a merger of the two systems. However, the form the new obligations would take was not yet known.

The Corporate Director added that she understood there was to be a nationwide stipulations on the level of contributions a Local Planning Authority could require when forming a S106, she was concerned by this as there was significant differences between development in the north and south of the country and also large variances in land values.

RESOLVED – 1) That the Allocation of Section 106 Funds report be noted (ED.35/20).

2) That an Informal Council Briefing on Section 106 Agreements be arranged.

3) That the Development Manager consider ways to include information on applications that would be subject to a Section 106 Agreement in the List of Planning Applications circulated to Members.

4) That the Corporate Director of Economic Development consider a method for involving Ward Members in the early stages of dialogue for a Section 106 Agreement.

## **BTSP.66/20 PLANNING FOR A NO DEAL BREXIT**

The Corporate Director of Economic Development gave a verbal update on the Council's position with regard to a no deal Brexit which covered: the background to preparations for a No Deal Brexit; the main challenges; supporting small businesses; loss of employees who were European Union residents; The Track, Trace and Go programme. The Corporate Director felt that the District was in a good position to be able to deal with a No Deal Brexit, but that the issue would continue to be monitored so that appropriate actions may be taken in a timely manner.

In considering the update Members raised the following comments and questions:

- A Member wished to see an Impact Assessment on how a No Deal Brexit would impact the Council and its projects and schemes.

The Corporate Director noted that all Council projects had Risk Assessments associated with them, she undertook to review those within her Directorate in the context of a No Deal Brexit.

A Member questioned whether the Council had sufficient resources to carry out a review of its project Risk Assessments as it was so wide ranging, for example, the various materials and equipment the Council procured. She also felt it was important to understand the impact on the wider district.

The Corporate Director responded that project Risk Assessments were very detailed and considered the impact on external factors as well as the Council. In terms of the wider community it was important that the Council, in leadership role, was able to signpost organisations and individuals to appropriate sources of information and help, therefore it was important Officers had up to date information so that they could respond to inquiries appropriately.

The Member asked what level of staff would have the necessary information to signpost people when Britain officially left the European Union.

The Corporate Director advised that, within the Economic Development team an Officer would be specifically tasked with the work. Information would then be circulated through networks such as Carlisle Ambassadors.

The Town Clerk and Chief Executive added that the Council was not sufficiently resourced to be able provide advice to all organisations and individuals in the district. However, it would use its resources in the most effective ways it could to provide advice and signposting where it was able to do so. In terms of the impact to the Council, Officers were familiar with the risk assessment process and would apply those protocols accordingly in their work in the event of a No Deal Brexit.

The Panel and Officers discussed ways in which the Council could risk assess the impact of a No Deal. It was proposed, seconded and agreed that a No Deal Brexit be included as a risk in the Risk Register report submitted to the Panel.

RESOLVED – That the verbal report of the Corporate Director of Economic Development on Planning For A No Deal Brexit be noted.

## **BTSP.67/20 OVERVIEW REPORT AND WORK PROGRAMME**

The Overview and Scrutiny Officer presented report OS.23/20 providing an overview of matters relating to the work of the Business and Transformation Scrutiny Panel. Further to the publication of the report a Notice of Executive Key Decisions was circulated on 9 October 2020, it did not include any items within the Panel remit. The Panel were advised that the Corporate Director of Finance and Resources had indicated that she aimed to provide the outstanding responses shown in Section 3 of the report as soon as practicable.

The Overview and Scrutiny Officer advised that in the Panel's pre-meeting, Members had indicated that the Quarter 2 Sickness Absence report be submitted as a "For Information Only" document rather than a report. Members confirmed that change to the agenda.

A Member suggested that an item be added to the 1 December meeting on Brexit Risk Assessment. The Town Clerk and Chief Executive undertook to provide the report.

RESOLVED – 1) That the Overview Report incorporating the Work Programme and Key Decision items relevant to the Business and Transformation Scrutiny Panel be noted (OS.23/20).

2) That the Quarter 2 Sickness Absence report be submitted as a “For Information Only” document at the 1 December 2020 meeting of the Panel.

3) That the Town Clerk and Chief Executive submit a Brexit Risk Assessment report to the 1 December 2020 meeting of the Panel.

(The meeting ended at 5.53pm)