

Scrutiny Panel

Tuesday, 14 March 2023

Attendees: Councillor Michael Lilley, Councillor Sue Lissimore, Councillor Sam McCarthy, Councillor Lee Scordis, Councillor Paul Smith, Councillor Dennis Willetts
Apologies: Councillor Darius Laws
Substitutes: Councillor William Sunnucks (for Councillor Darius Laws)

396 Work of the One Colchester Partnership

Councillor Lilley (by reason of being the coordinator of a local neighbourhood watch and of being a member of a local speed watch group) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7 (5).

The Chairman explained the background to the item, which had originated from past scrutiny of the Safer Colchester Partnership which, as an organisation, now sat within the One Colchester Partnership [OCP]. The Scrutiny Panel wished to conduct a scrutiny session at a higher level, to examine the OCP itself.

Tracy Rudling, Chief Executive [CEO] of Community360 [C360], and Chairman of the OCP, gave a brief background to the OCP. The Partnership had formed initially as the Health and Wellbeing Board in 2012; a coalition of the willing, working at a strategic level and including input on clinical matters as well as housing and employment. The structure of the OCP was outlined, with a Strategic Board and a Delivery Board, with links to partner organisations. The OCP response to Covid had been critical work, and the OCP's dispersed leadership model of governance was highlighted and explained, using a data/intelligence-led approach to target resources at where they were most needed, whilst providing effective governance over use of funding, through asset-based development.

Jessica Leonard, C360, explained the OCP's cross-sectional working, implementing projects where needed, such as on the cost of living crisis, helping organisations build on their capacities. The OCP Hub had, in the past year, extended its opening hours, especially in the evening and on weekends, and was used as a warmth hub, collaborating with a range of organisations and societies. Over 4,000 hours had been put into supporting people. The slideshow presentation showed a number of the main achievements during 2022-23.

Louise Irons, C360, explained the work of the OCP Funding Panel, including the funds available and the sourcing of matched-funding and sharing of ideas, insights and networking. £1.72m of funding had been provided to organisations and projects in 2022-23.

The Community Safety Delivery Board [CSDB] was described, with its statutory nature and including its background and duties. This used to be named the 'Safer Colchester

Partnership.' The Panel were told why this was adapted into the CSDB, as part of the OCP, and were given the wider implications and factors with which this dealt.

Chief Inspector Colin Cox, Essex Police District Commander, listed the safety priorities which had been set, and included tackling organised crime (especially drug trafficking), anti-social behaviour, violent crime, domestic abuse and other hidden harms, and violence against women and girls. The Chief Inspector explained the Essex Force Plan, and its 'Prevent, Respond, Investigate' approach. An overview was given for recent operations conducted in pursuit of the Force's priorities, including work to educate businesses to spot, report and prevent potential harms, such as child criminal exploitation. The Police had worked with partner organisations to raise awareness of violence against women and girls, such as at the University Freshers' Week. Work was also conducted with licensees, the S.O.S. Bus and street pastors to reduce crime in the night-time economy. Regular, high-visibility patrols were targeted at different areas of Colchester for short lengths of time. A pop-up police station had also been operated during the Christmas period and a Public Space Protection Order had been introduced to tackle vehicular crime.

Lucie Breadman, Strategic Director, gave an overview of campaigns to make a difference, for example in seeking to improve public safety. Partnership had been key to many successful funding bids.

The One Colchester representatives were asked to describe the alternative models of governance to the one of dispersed leadership which had been employed by the Partnership, and whether these had been considered and whether it was possible that the leadership could become too dispersed and the Partnership become too unwieldy. Tracy Rudling, CEO of C360, gave assurances that One Colchester worked well with the current leadership model, with strength in depth from key people being able to cover each other's responsibilities when necessary. The previous model used to be less multi-disciplinary, with a number of different ways of working tried, organically evolving to produce the current arrangements which had been found to be more efficient and effective. The full range of partners participated in the Delivery Board, rather than the Strategic Board. The Strategic Board sat above the Delivery Board, and the Community Safety Delivery Board [CSDB, formerly the 'Safer Colchester Partnership'], and a range of sub-groups were used to conduct specific work assigned by the Strategic Board in a 'task and finish' manner.

The Panel asked for detail as to how One Colchester was funded, and how funds were held, accounted for and audited. The CEO of C360 explained that funds were held in accordance with the Partnership Agreement, with most held and audited within the accounts of C360. For transparency, any voluntary sector or hyper-local funding was shared out with the appropriate partners. The partnership approach was for the Funding Panel [voluntary sector partners, businesses, Essex County Council and Colchester City Council] to discuss and have a say on the disbursement of funds. An example had been that place-based funding had been taken on from the Lottery Fund, to go into work on helping improve quality of life for those dealing with dementia. An extension to this funding had recently been granted. Around 25 different funding pots were held by C360 on behalf of the One Colchester Partnership, including some which were audited as restricted funds for specific purposes. These weren't held separately to the C360 accounts, but sat as restricted funds within those accounts. Panel

members requested that the account details relating to One Colchester funds be circulated to them after the meeting, to show how the partnership operated financially. Tracy Rudling, CEO of C360, agreed to provide this information to Owen Howell, Democratic Services Officer, who would circulate it to members of the Scrutiny Panel.

A Panel member raised concern that mental health improvements had not progressed far via One Colchester's work, noting that the NHS had representation on the Board of One Colchester, but that there wasn't a representative present for the NHS's mental health services. The CEO of C360 explained that mental health service providers had recommended the work of One Colchester. The charity Mind operated a regular café at the C360 Hub in the centre of Colchester and there were discussions ongoing relating to the potential for C360 staff to be seconded to support organisations providing mental health support services. It was an ongoing issue that more support was needed, but the CEO of C360 detailed some of the mitigating work already underway to address the problem.

Laura Taylor-Green, Director of North East Essex Alliance, explained that the Alliance had been the commissioning group, with mental health and suicide prevention as a priority. High rates of suicide in the area had led to the prioritisation of work to reduce this. An all-age approach was taken to mental health work, including with parents, carers, schools and other education providers. One Colchester oversaw a place-based strategy in this area, with an integrated neighbourhood approach and multi-agency model to cover all of Colchester and Tendring. Colchester was split into three areas, where partners combined resources to address issues such as mental health improvement, housing and antisocial behaviour. The model for this was not currently completed, but full functionality was expected by this time next year. Not all issues could be addressed in a single year, but the Alliance and One Colchester would be in a better position to address their main priorities within the year. A detailed approach to addressing suicide rates was carried out under the Essex Suicide Prevention Board, via the Alliance and One Colchester. The Panel gave the view that data should be evidenced, and used by One Colchester to explain how it sought to address mental health issues and to reduce suicide rates. the Director of North East Essex Alliance agreed to pick up this point with the Chair of the Essex Suicide Prevention Board.

A Panel member asked how the available budget for One Colchester had doubled and from where the funding had come. The CEO of C360 explained that the Integrated Care Board had brought domain funding into the Partnership, with place-based lottery funding also being obtained. As partners saw One Colchester working well, more organisations contributed funding to use on hyper-local work.

Answering questions as to the data collected and used by One Colchester, the CEO of C360 explained that data was collected on a ward level, and asset mapping was at a postcode level. Examples were given to show the granularity of issues reported. A concern was that ward-level was not granular enough, especially in large or diverse wards, and could potentially miss areas of need. Collecting data relating to assets or referrals at a postcode, or street level, was more effective. The level of data collection granularity varied between partners, with the Police working at a ward or neighbourhood level, and C360 collecting data at the level of six-digit postcodes. Much data collected was at the level of specific individuals.

The Panel asked questions as to the relationship between One Colchester and the Council, and as to ways in which the Council could provide better support. Tracy Rudling, CEO of C360 gave assurance that the relationship was better than ever, in her experience of the past thirty years. Partnership working levels were excellent. One way in which work could improve would be for all partners to look beyond their individual powers and find ways to address issues together, in communities. Much work had been done to understand how this could be done and implemented.

Councillor King, Leader of the Council, thanked the One Colchester representatives and emphasised how well-developed partnership working was in the Colchester area, bringing a focus and scope that couldn't otherwise be achieved. Colchester did well in applying for and winning funding. If funders such as the NHS showed that they saw potential in Colchester, this would make additional funding available. The Leader outlined work going on to address how refugees in the area were being treated.

A Panel member asked what metrics were available, relating to the aim and work to narrow gaps between the most deprived areas and the rest of Colchester, and whether they showed a narrowing of the differences. The CEO of C360 stated that differences had not narrowed, primarily due to the cost of living crisis. One Colchester aimed to support deprived communities in levelling up, improving employment and meeting living costs.

The Chairman emphasised the complexity of the One Colchester organisation and posited that, whilst the Panel should accept that it was not possible to gain complete assurances regarding performance, it was possible to gain a certain level of assurance. The Panel noted the importance of wide-ranging partnership working and praised the One Colchester Partnership for its work.

RESOLVED that the Scrutiny Panel; -

- (a) Requests to see the accounting information for the Partnership, split away from the full accounts of Community 360
- (b) Receive data relating to suicide rates, and would consider how to scrutinise One Colchester plans to reduce rates.

397 Briefing by Councillor Andrea Luxford-Vaughan, Portfolio Holder for Planning and Infrastructure

Councillor Andrea Luxford-Vaughan, Portfolio Holder for Planning and Infrastructure, thanked the team of officers who had been working with her on matters within her portfolio and explained what elements of her portfolio would not be covered in the briefing, as they were dictated by national legislation.

The Local Plan had been a key part of the work from this year, as well as a significant amount of work being done regarding the Tendring/Colchester Borders Garden Community [TCBGC] project, alongside Tendring District Council [TDC] and Essex County Council [ECC]. All partners were committed to delivering this project successfully, and the Portfolio Holder underlined her commitment to preserving the

principles under which the Council had signed up to the project: Deliverability, sustainability and viability. The different workstreams were carried out with Cabinet colleagues and officers.

Regarding the TCBGC, the Portfolio Holder gave the view that there needed to be a cap on the number of houses built prior to completion of the link road and the addressing of certain viability questions. New infrastructure was vital to support the new development, but it was pointed out that the Council only had one vote in decisions, along with TDC and ECC.

The Portfolio Holder explained that she had not been able to support the proposals for development at Marks Tey, and that the Colchester area was now safer from prospective speculative development now that the Local Plan had been approved and was in place. The benefits of neighbourhood plans were extolled, and the Panel were informed that a number of these were progressing. A number of supplementary planning documents [SPDs] had been adopted or were being drafted, including adoption of an SPD on affordable housing, and ongoing consultation on an SPD regarding biodiversity. An SPD to cover shop design was also under consideration.

The Portfolio Holder outlined the current and ongoing infrastructure audit, paying credit to Councillor Andrew Ellis for his work to commence the audit during his time as Portfolio Holder for Housing, and his ongoing work on the subject. . A range of issues affecting Colchester were described, including the area's infrastructure deficit. Section One of the Local Plan had assumed that funding would be provided for dualling work on the A120, but no commitment had been received for this and central Government would need to be pushed on this. The Portfolio Holder noted that Section 106 developer contributions could not be set retrospectively, which meant that it was important to know what infrastructure was missing, in order to ensure S106 contributions could be set appropriately.

Two planning appeals, in Tiptree and Wivenhoe, had recently been determined in the Council's favour. The Council was outperforming most local authorities in regard to enforcement. The Council's team was doing an excellent job.

Nationally Significant Infrastructure Projects in the area included the A12 and the National Grid's East Anglian Greening Project. Simon Cairns was praised for his work on supporting biodiversity mitigations. A review had been agreed by the National Grid on the offshore generation of power. National Government policy had been an issue and the Council needed to lobby MPs to get a change to Government's approach.

Regarding the National Planning Policy Framework consultations, the Portfolio Holder stated that developers were not in favour of the changes proposed, whilst local authorities and policy writers saw the changes as being positive.

City centre regeneration was part of the Masterplan, and the Portfolio Holder explained why it had been split into two streams. The consultation was about to commence on the Masterplan and an outline was given for this, and of the responses already received from the public via other channels. The Council was working with ECC on the County Council's Transport Strategy. This included on potential changes to Crouch Street, where ECC had returned to carry out additional consultation. The

Portfolio Holder explained that she was against the proposed changes on Crouch Street, such as the proposal to fill in the underpass.

Members of the Panel voiced their approval of the way in which the Portfolio Holder had worked to deliver the Tendring/Colchester Borders Garden Community [TCBGC], and had provided explanations and information to elected members, relating to the complex processes involved. Many different briefings had been held to inform on the situation and the work carried out by the Portfolio Holder. A Panel member asked the Portfolio Holder for her view on the garden community principles, citing concern about the recent blurring of those principles, especially regarding the new link road, and asking how strictly they were being kept to. The Portfolio Holder confirmed that a set of principles had been agreed upon, on top of those relating to the Town and Country Planning Association principles. She had held reservations about initial ideas for a delivery corporation and explained that work continued to deliver against the principles put in place, but was doubtful that this would be entirely possible to achieve.

A Panel member praised the Portfolio Holder's understanding of planning, business, and land value uplift issues, and asked if she was receiving sufficient and objective support from officers and to give details as to any risks expected to arise and potential mitigations. The Portfolio Holder confirmed that she was receiving the necessary support from officers, and explained that her concerns lay with ECC, who having identified a problem, asked Homes England for funding to cover the shortfall identified and a time extension, to reflect the disruption from the Pandemic. The extra time request had been granted, but Homes England refused to provide additional funding. ECC could only therefore commit to building the new link road to a certain point [to Allens Farm]. The Portfolio Holder explained she had concerns regarding land acquisition and progressing the road. Requests for information from ECC had not yielded all necessary information, with commercial sensitivity cited as the reason for documentation being withheld. The Portfolio Holder raised her concern that a past contract had been signed by the Council without details being given, and a further contract was to be signed without details being provided by ECC. The Portfolio Holder argued for a cap on the number of homes to be sold prior to completion of the link road, and for getting full information on projected road usage of different types. Other challenges were identified including negotiations with one local landowner, and the difficulty that Highways England had raised with joining the link road to the A120 in a way that addressed safety concerns. These raised questions as to the overall scheme's viability. Answering further questions, the Portfolio Holder gave her view that it felt as though there was a loss of control of the project by the Council, however caveating this by saying that this was not necessarily the view of officers, and that Cabinet were not all of this opinion.

More information was requested on the ECC Transport Strategy. The Portfolio Holder outlined how the Council was looking at this with ECC in work on master planning, and increasing transport routes as part of the work relating to the Town Deal projects. There was also the rapid transit system [RTS], but only as a single route. Overall, bus services were being cut back, hurting a number of areas. Solutions had yet to be identified and would be needed at a wider level than just for Colchester. It took a long time to receive any response from FirstBus regarding getting information or meetings. A Panel member praised the £2 bus ticket initiative and criticised the current poor service for rural areas. The Portfolio Holder argued in favour of setting a scheme of

incentives and penalties to force service improvements.

The concern was expressed that the RTS would need pump priming and would likely not be self-financing for years. In answer to Panel questions, the Portfolio Holder expressed her wish for Colchester to be granted greater control, relating to an integrated Transport Authority for North Essex. This would mean much work, but was an interesting prospect.

A Panel member asked whether there was a strategy to ensure that roads under Council control would be maintained well. The Portfolio Holder explained that she did not have much information on this subject, and had not been a member of the Local Highways Panel for Colchester.

The Chairman thanked the Portfolio Holder, on behalf of the Panel, for her work and consistent briefing of fellow councillors.

398 Review of S106 Developer Contributions

The Chairman explained that this item had been added to the Panel's work programme following a request by Councillor Paul Smith, on behalf of Councillor William Sunnucks.

Karen Syrett, Lead Officer for Planning and Place Strategy, presented the report, covering issues and topics around the collection and use of S106 developer contributions. Much background information was covered, including legal guidance, national policy and local policies. Three statutory tests were required when setting S106 agreements. These covered whether it was necessary in order to make a development acceptable in planning terms, ensuring that the contribution was directly related to effects of the specific development in question, and ensuring that any contribution was to be fair and related in scale to the development itself.

It was underlined that S106 contributions could not be used in order to address existing deficiencies, but only those to be caused by the development itself. National guidance was that a formulaic approach should not be taken to S106 contributions, although the Lead Officer for Planning and Place Strategy noted that, in some ways, it would help developers to know what to expect, but all S106 agreements had to be site specific.

A number of issues had been identified in the past year, with some already now mitigated after a review of the Council's processes. The Planning Advisory Service was a good starting point for improvements, with others shown in the report. Example S106 agreements were also included for reference.

The Lead Officer for Planning and Place Strategy explained why the Council had not implemented the Community Infrastructure Levy [CIL]. This had been progressed in part, but at the time was not taken forward, as the desire to prioritise the delivery of affordable housing meant that CIL could not be implemented, as this would have taken priority instead. CIL currently worked in tandem with S106, where implemented. Current thinking was to proceed with S106 contributions and an infrastructure levy.

Consultation on changes to the system were expected at any time, and this complex process would be piloted with a number of local authorities in the coming years.

An audit of an S106 matter was underway in the Stanway area. Any recommendations would be considered for implementation in building changes to the current system.

A Panel member gave examples of gains from S106 contributions and gave the view that the use of powers to set S106 contributions had previously been assessed to work better for Colchester than utilising the CIL system, but agreed that the CIL system should and must be looked at again and made use of, if it could be seen to be beneficial for Colchester. Concern was raised regarding developers reporting their finances in such a way as to avoid living up to S106 requirements. Some parish councils were leading pushes to ensure receipt of S106 contributions, but the Panel member argued that it was harder to get contributions for hyper-local schemes in unparished areas.

The Lead Officer for Planning and Place Strategy was asked if the Council was spending all the S106 contributions to which it was entitled, whether any agreements 'timed out', and whether there was a process for swift use of contributions to prevent the loss of funds. The member noted that residents sometimes struggled to understand the process and asked if direction was available as to what project types could be covered by S106 agreements. The Lead Officer for Planning and Place Strategy agreed that up-front identification of appropriate projects was important. More was done on this now than previously, including via the local infrastructure delivery plan and via Local Plan policies. A policy had been developed for Layer de la Haye, with councillors, residents and landowners. The positives of this were given and an up-front approach had been taken to its development, to prevent surprises. Reliance was placed on local councillors across Colchester to help update priorities, such as for the Local Plan.

The Lead Officer for Planning and Place Strategy highlighted the large infrastructure deficit around Colchester, and the increase in demands on developers for contributions to mitigate development effects. The Council implemented long time periods for spending contributions, to avoid loss. The Local Infrastructure Plan had helped, with swifter identification of projects which could combine S106 contributions to provide more new infrastructure. The system had been streamlined, including the use of Office 365 to improve processes, and a more strategic overview of S106 was now taken.

The Lead Officer for Planning and Place Strategy was asked what would happen if councillors from a ward disagreed on priorities for S106 contributions and, for competing priorities, how affordable levels of S106 contributions were calculated to match viability assessments. Questions were also asked as to how much was gained by using an open-book method, and what happened if property prices increased over the time taken for developments. The Lead Officer for Planning and Place Strategy explained that competing demands were identified at an early stage and councillors could recommend their preferred projects in the process. No system could resolve all competing demands, but officer advice would be drafted to reflect what would be most appropriate, according to the Local Infrastructure Development Plan [LIDP]. The Panel discussed what happened where multiple proposed projects were in line with the

LIDP, and whether it was appropriate for officers to judge which would be most appropriate. The Lead Officer for Planning and Place Strategy explained that officers had always been responsible for identifying appropriate projects. Projects were now specified prior to S106 contributions being agreed, with the Planning Committee then discussing whether the S106 projects were appropriate. An explanation was given of the tests and criteria applied when projects were assessed.

Local Plan policy ensured that all sites within the Plan were considered deliverable and developable, with developers having to confirm this, in order to be allocated. Open book assessments had not led to great success in challenging and increasing S106 contributions. Viability tests at the application stage had been the norm, but viability now had to be shown at an earlier stage of plan making, as the national approach to this process had changed. Some applications returned to renegotiate viability. Some then increased their affordable housing. If developer profits increased, this was within the context of developers considering developments as taking a risk, with potential loss and potential gain.

A Panel member raised his concern that Colchester had taken much development, and his view that infrastructure had not kept up. A further concern was raised that the Council was not capturing the uplift value of development land. The Panel member urged an articulation of what infrastructure was needed and how it would be obtained and argued that the system was hard on developers who did not know in advance the level of S106 contributions required. Detail was requested on the process for deciding on infrastructure needs.

The Lead Officer for Planning and Place Strategy underlined that the process was within a policy/Plan-led system, with developers submitting applications and the Council expecting them to pay what the policy laid out. It was explained why the example given of site uplift wasn't expected, as it involved a site which had not been allocated for development. There was currently an infrastructure deficit in all parts of the Colchester area. The Lead Officer for Planning and Place Strategy emphasised that planning should not be about taxation, but that planners were, more and more, having to try to address infrastructure deficits. S106 contributions could not be used to mitigate existing deficits, but only to prevent them from being worsened by new developments.

The Lead Officer for Planning and Place Strategy was asked why a CIL was not used, with a Panel member suggesting that the infrastructure review be finished, then the results used when looking to put a CIL in place, putting requirements in place up-front to ensure delivery.

The Portfolio Holder for Planning and Infrastructure had recently attended a seminar on CIL and advice had been given that CIL should not be progressed further at this point in time as movement on infrastructure levy provisions was expected in the near future. Regarding questions on the Garden Community, the Lead Officer for Planning and Place Strategy highlighted that information in Section One of the Local Plan and the Development Plan Documents covered the infrastructure requirements.

A Panel member criticised instances where City Councillors identified needs for contributions [regarding services and infrastructure within the County Council's remit]

but where ECC did not apply for S106 contributions. Panel members asked whether the Council could do anything to show concern at potentially missed opportunities. The Lead Officer for Planning and Place Strategy emphasised that ECC could not be formulaic in its approach to developer contributions, giving examples where it had not been able to require contributions.

The Panel discussed whether developers were too good at arguing to reduce S106 contributions, based on arguments of viability and affordability, or whether there were too few schemes being brought forward for which S106 contributions could be levied. The Lead Officer for Planning and Place Strategy noted that a lack of S106 agreement had been used in some cases to refuse applications. Mixed results had been found at appeal, as inspectors were very strict on S106 issues and compliance with the statutory tests.

Infrastructure deficit work was underway city-wide, involving all statutory bodies and partners. This would be used to help inform viability work for the Local Plan, to show constraints and the work needed to address deficits going forward. Councillors, parish councils and community organisations were asked to identify projects appropriate for S106 contributions, and this was identified as something that should be improved upon. It was explained that the LIDP only covered Council functions, except where mixed-use facilities were involved.

A Panel member argued that the same evidence would be needed, whether feeding into a CIL or other infrastructure levy, positing that Colchester needed to achieve this and produce a case for raising funds to address infrastructure needs. The Panel member argued in favour of up-front viability appraisals, rather than later open-book arrangements. The Panel member noted that the ECC Developers' Guide, in section 5, had clear formulae for S106 agreements.

The Lead Officer for Planning and Place Strategy offered to provide, in the monthly report to councillors detailing available S106 monies, the Local Infrastructure Delivery Table (LIDP), for councillors to monitor and make suggestions. The Panel welcomed this offer.

The Panel discussed whether it wished to make recommendations on the report and its discussions. The Portfolio Holder for Planning and Infrastructure offered to raise any recommendations made by the Panel, at future ECC Portfolio reviews.

RECOMMENDED to Cabinet that; -

- (a) The monthly report to councillors, detailing available S106 monies, includes the Local Infrastructure Delivery Table (LIDP);
- (b) A robust response be provided to Essex County Council, regarding the latest version of the County Council's Developers' Document;
- (c) Further support be given to the infrastructure audit;
- (d) A specialist officer be appointed to oversee S106 and the infrastructure audit.

RECOMMENDED to the Portfolio Holder for Planning and Infrastructure that, at their

next meeting with Essex County Council's Portfolio Holder for Economic Renewal, Infrastructure and Planning, they raise the issue of liaison between the two councils regarding the setting of S106 contribution requirements on different developments.

RESOLVED that the Scrutiny Panel receives a report on what the process should be for collection of S106 funds, and to explain what items are collected.

399 Annual Scrutiny Report for 2022-23

The Chairman explained the purpose of this report and, should there be a need for additions following the Panel meetings on 14 and 15 March 2023, offered to agree any additions with the lead group members.

**400 *RECOMMENDED* that Council approves the Annual Scrutiny Report for 2022-23.
Work Programme 2022-23**

RESOLVED that the Work Programme for 2022-23 be approved.