

SCRUTINY PANEL

5 July 2022

Present: -

Councillor Laws, Councillor Lilley, Councillor Lissimore, Councillor McCarthy, Councillor Scordis, Councillor Smith, Councillor Willetts

Substitutions: -

Also present: -

Councillor Cory, Councillor Fox, Councillor King, Councillor Sunnucks, Councillor J. Young

353. Minutes of previous meeting

RESOLVED that the minutes of the meeting held on 7 June 2022 be approved as a correct record.

354. Have Your Say

Mr Alan Short addressed the Panel pursuant to the provisions of Meetings General Procedure Rule 5(1) to request that an inquiry be carried out on Cabinet handling of the Council's dealings with Alumno regarding the proposed development scheme between Queen Street and FirstSite, Colchester. Mr Short stated that a review had been promised by Paul Dundas, as then-Leader of the Council, and Will Quince, MP for Colchester. Mr Short argued that Scrutiny Panel should conduct such an inquiry and review. Mr Short detailed a number of his concerns relating to the Alumno scheme, such as the lack of information regarding the decision taken to add student accommodation into the Local Plan, in a 2014 amendment, and no information given as to who made the decision. Another concern given was the attempt to stop access to the North end of the site by business owners whilst work was carried out, to be followed by only limited access being possible after that. Mr Short then noted the offering of the land for sale by the Council to Essex County Council, and his concern that briefings had shown little relation to the final content of the agreements signed over the site. Mr Short argued that a review needed to be carried out to ascertain what actions and decisions were taken, what went wrong and what lessons could be learned.

The Chairman addressed Mr Short's request, explaining that the Panel would need to decide whether the decisions taken were potentially contrary to the Budget or the Strategic Plan, if it was to agree to scrutinise this matter. Some of the issues raised appeared to fall under the Panel's remit for scrutiny work, although it was not yet clear that this was a suitable subject for the Panel to address. The Chairman explained that this request would be discussed within the meeting's item dedicated to the Panel's work programme and, if the Panel decided that a review would be likely to be of value to the Council, this could then be added to the work programme.

The Panel briefly discussed the conflict of interests which would likely arise for former members of Cabinet who now served upon the Scrutiny Panel, should the Panel decide to scrutinise this subject and the relating Cabinet actions and decisions.

Councillor Sunnucks attended and, with the permission of the Chairman, addressed the Scrutiny Panel to request that work be carried out to look at how Section 106 contributions from property developers could be maximised and better collected in the future. Councillor Sunnucks provided examples of inconsistencies in the approaches used in setting and collecting 106 contributions, including the obtaining of contributions towards County Council functions such as education provision. Councillor Sunnucks suggested that the Essex County Council guide on development be consulted, and a range of specific examples be selected from the planning applications dealt with by Colchester Borough Council to show how contributions were dealt with locally and how this might be improved.

The Chairman informed Councillor Sunnucks that requests by elected members (who were not Scrutiny Panel members) for the Scrutiny Panel to consider items related to its functions must first be submitted, in writing, to the Clerk of the Panel before they could be considered under Item 9(b) of the following meeting of the Panel. It was suggested that, should a member of the Panel wish to propose that the Panel consider this issue and add it to the agenda of a future meeting, this could be done under item 9(a) of this meeting. Councillor Paul Smith indicated his wish to do this.

355. Items requested by members of the Panel and other Members

Councillor Paul Smith requested that the Scrutiny Panel table an item on its work programme to allow the Panel to scrutinise the setting and collection of Section 106 contributions from developers, and to consider potential ways to improve how these could be improved in the future. Panel members indicated that they wished to examine all types of s106 contributions, including those which were for County Council functions [which would be for the County Council to recommend] in order to identify any areas of concern.

RESOLVED that the Scrutiny Panel would direct that a report be prepared and brought to the Panel for consideration, to examine any issues, problems, collection rates and procedures relating to setting and collection of section 106 contributions from developers, and that this includes examination of the relevant guidance from Essex County Council and comparison of a range of planning applications received by Colchester Borough Council.

356. Council Tax Rebate

The Chairman introduced the item as having been requested by Councillor Smith at the Panel's meeting held on 7 June 2022. Councillor Cory, Portfolio Holder for Resources, and Samantha Preston, Group Manager – Customer, presented the report and expressed their thanks to the officers who had drawn up the scheme to make rebate payments and roll it out. A high percentage of eligible people paying Council Tax via direct debits had received their rebates. Officers were now focussing

on identifying eligible Council Tax payers who did not use direct debits, and to use the options available to find ways to pay out the rebate. The discretionary payment scheme was explained, with details as to how it was and would be used.

The initial announcement of a Council Tax rebate was made in February, and it had been understood to be a challenging task to design and roll out a scheme for making rebate payments. The main challenge was that the Council Tax payment system had been designed to receive payments from the public, rather than to pay out funds. Officers had worked quickly to build this function into the system, then moving to identify eligible non-direct-debit payers of Council Tax and find appropriate ways to provide the rebate to them. An overview of this work was given, along with statistics relating to the percentages of claim rates by eligible Council Tax payers, with an estimated 8,000 residents to be contacted directly by officers to inform them as to how they can claim their rebate. The Panel was informed of the issues which had caused some eligible applicants to be rejected by the Government system, and the ways in which the Council was working to identify those who were in this situation and who were eligible to receive a rebate. Likewise, the Panel was informed of the Council's work to ensure that residents who were not able to engage online were not excluded and were informed of the ways in which they could receive their rebates. Work included direct contact and targeted communications aimed at reaching those who were hardest to contact.

£318k had been allocated for discrete payments to those in need who were not eligible for rebates from the main scheme. The Council was determined that all funding provided to it would be used to assist those residents who were in need. The Panel considered whether it might be useful for it to make recommendations to Cabinet to encourage Cabinet to ensure that no eligible residents were missed and that measures be in place to ensure that all discretionary funding was used to support residents in need. The Portfolio Holder for Resources gave assurance that the Council was already proceeding in line with these suggested recommendations and taking every measure possible, with a last resort being the crediting of individuals' Council Tax accounts with the rebate amounts, where all other options of payment had not been possible. This approach had been approved and the formal policy relating to the Council's payment of rebates would be amended to show this as soon as possible. Priority was being given to help those who were already in receipt of financial support from the Council. The Scrutiny Panel judged that, in light of the assurances given by the Portfolio Holder, recommendations at this stage would be unnecessary, but that they might be merited to show the confidence and approval that the Panel had gained from the assurances given to it.

A Panel member asked how residents could be directed to apply for discretionary funding, including in cases where Council Tax banding of a property was considered to be in need of review, and was told that this information could be provided by officers following the meeting.

RECOMMENDED to CABINET that: -

- a) Cabinet acknowledges and continues to approve of the measures being used by officers to identify those eligible for Council Tax rebates and to pay out

these rebates, in line with the robust assurances provided to, and accepted by, the Scrutiny Panel

- b) Cabinet approves of the crediting of eligible Council Tax accounts, as a last resort and where other options for payment of a rebate have been exhausted

357. Year End April 2021 – March 2022 Performance Report Key Performance Indicators (KPI) and Other Performance News

Richard Block, Assistant Director (Corporate and Improvement), presented the item and explained the report's content and the use of key performance indicators [KPIs] by the Council. The Council's performance over the past year had continued to be affected by the Pandemic. Midyear performance information for 2022-23 would be brought to the Scrutiny Panel later in the year, with pre-decision scrutiny of the KPI targets for 2023-2024 to follow later again.

Councillor David King, Leader of the Council, explained that 2021-22 had been a difficult year, with a specific priority having been set as health and wellbeing, to ensure the maximisation of service delivery. The KPIs hardest hit by Covid-19 were highlighted.

A Panel member asked what powers the Council held to force developers to build affordable housing within their developments. The Panel noted that this could be covered later in the meeting when the Panel considered the draft Housing Strategy.

The Panel noted and discussed the ongoing issues relating to the time to relet council residential properties. The Assistant Director (Corporate and Improvement) agreed that the past year had been particularly difficult, in part because of Covid-related delays to the eviction process, which had led to the properties involved being more badly damaged by the tenants, increasing dilapidation and therefore requiring longer remedial works. It was suggested that this could be raised with Colchester Borough Homes when they next appeared before the Panel.

RESOLVED that the Panel noted the report's contents and were assured as to the explanations given for missed targets, with the exception of the target for building of affordable homes, which would be discussed in a different item.

358. Year End April 2021 to March 2022 Performance Report 2020-2023 Strategic Plan Action Plan

Richard Block, Assistant Director (Corporate and Improvement), explained that this was the last year of the current Strategic Plan, and that a full final report on it would be given once it had concluded.

Concern was voiced by one Panel member that the Plan, and its Action Plan, were too large and covered every operation undertaken by the Council, rather than showing a prioritisation. Priorities were hard to discern, given the breadth of the Plan. It was accepted that there would need to be a large Strategic Plan and Action Plan, to represent the work done by the Council, and with Full Council deciding upon the Plan, it was argued that Scrutiny Panel views on content and performance were

important when setting and achieving targets. No recommendations were decided at this time, but the Chairman affirmed that the Panel would continue its monitoring and receive further progress reports.

RESOLVED that: -

- (a) Scrutiny Panel has confirmed satisfactory delivery against the Strategic Plan Action Plan and that the Council has made satisfactory progress in meeting its strategic goals
- (b) Scrutiny Panel will conduct its usual mid-year scrutiny of progress and its normal monitoring activities through the municipal year

359. Colchester's Housing Strategy 2022-27

Councillor Julie Young, Portfolio Holder for Housing and Communities, explained that it was a statutory duty for the Council to have a Strategy, which was being put in place for 2022 to 2027. This would give a vision for the future to provide access to safe and affordable housing, and to include content on private rental standards, neighbourhood improvements and health and wellbeing connotations.

Matt Sterling, Strategic Economic Growth Manager, gave a presentation on the content of the draft Strategy and explained that this would provide an overarching framework for other individual policies. The delivery plan for this Strategy was detailed and would include partnership working and Council contributions to the providing of housing by other organisations. Statistics were provided to show the extent of local needs and the demographics most in need. Key achievements were listed, including the 117 of 741 new homes built during 2020-21 being affordable housing.

Karen Paton, Housing Strategy Co-ordinator, informed the Panel of the updated evidence base and consultative work carried out to inform the Strategy. A project group had been used to examine views and evidence obtained. The draft Strategy had then been shared with officers, Colchester Borough Homes [CBH] and the Council's relevant partners. The Strategy had been drafted to align with national priorities. The Strategy's four key aims [Increased supply, Sustainability and Community Building, Improved Structure Standards, and Prevention of Homelessness] were outlined, with a separate strategy also to exist for tackling homelessness. The implementation and monitoring of the delivery plan was explained, with regular reporting to the Portfolio Holder for Housing and Communities. The Strategy would be an organic, evolving document.

The Chairman explained that the Panel would look at the Strategy and offer views as to whether it was fit for purpose. Praise was given for the clear presentation and explanation of the key priorities and how the Strategy had been formed around them. Questions were asked as to how to supply the greatest amount of necessary housing for sale and whether funding would be provided to housing associations for affordable housing developments or purchases.

The Panel discussed evictions from private rental properties, caused by landlords selling up and a variety of other reasons. Officers were asked for estimates as to the numbers of applicants joining the housing waiting list, and whether reasons were given for their needs to apply for housing. A Panel member also asked if data existed as to how many applicants were from Ukraine. The Strategic Economic Growth Manager explained that it was hard to predict eviction levels in the private rental market. Council officers provided advice to local residents regarding the eviction process and as to how to register their housing need with the Council.

A Panel member noted that the average house price for Colchester was over £350k whilst the median income in Essex being around £27k, which made house buying unaffordable for many, thus increasing demand pressure on the rental market.

The 20% target for affordable housing as a percentage of new build properties was not met in 2020-21 and officers were asked how the Council would meet the updated target of 30%. The Strategic Economic Growth Manager outlined the range of different types of affordable housing schemes possible, with the Council striving to achieve a balance of the different types. The Council now routinely and successfully demanded that 30% of homes in new development be affordable housing. The four main avenues to increase affordable housing were to insist on it being included in developments (as planning gain), for the Council to build affordable housing itself, to buy stock (including homes sold under 'Right to Buy' provisions, and to work with non-profit deliverers (such as alms houses) to help them build more. A Panel member pushed for stronger wording than to 'seek' 30% of properties on new development to be affordable housing, and for the Council to examine why it does not achieve this 30% for all major developments. It was confirmed that the draft Strategy did call for 30% on all major developments, and that the Council sought this from all new major developments. Members discussed the instances where developers agreed to a set percentage of affordable housing, but later sought to reduce or remove requirements for affordable housing, on viability grounds. Assurance was given that the Council did its best, case by case, to hold developers to the requirement. Any request for variations to the requirement would need to be backed up by evidence to prove unviability.

The Panel discussed the possibility of prioritising local people to give them first chance to buy new affordable housing, before it is offered on the open market. The Portfolio Holder explained that, working with CBH, partnership schemes, the Council were looking at ways to offer new properties to local people first, such as the developments on sites formerly used for garages. A member highlighted a pilot trial, where an application for a village development had been granted subject to a local prioritisation scheme being tested when the properties were ready to be sold. Panel members suggested that the draft Strategy contain content that would lay out the Council's approach to prioritising sale of affordable housing to people with local connections or residency.

Caution was urged that affordable housing provision was just one part of developers' contributions to the local area and local authority. Some County Council members felt that the County Council's requests for section 106 contributions were often set at lower levels than they should be. Planning authorities such as the Council would

need to be mindful of the overall financial commitment levels applying to developers and balance the requirements set upon them.

A Panel member queried the lack of environmental content, such as regarding allotments, minimising carbon output from transport options/car use, and on finding more green spaces. The Strategic Economic Growth Manager gave assurance that this would be covered in the framework and detailed in the delivery plan.

The Panel discussed whether to make recommendations regarding strict enforcement of the requirement that 30% of each new development be affordable housing and regarding prioritisation of local people and those with local links when affordable housing was completed. The Portfolio Holder emphasised Cabinet's commitment to pursuing the 30% requirement, and the other options for providing affordable housing. As a partner in Gateway to Homechoice, the Council would continue to take a sensitive but firm approach to making best use of the existing stock of housing in the social rental market.

RECOMMENDED to CABINET that the Council retains a target that 30% of the properties to be built for any major development must be required to be affordable housing.

RESOLVED that the Panel directs officers to present reports to the Panel on: -

- (a) Collection of Section 106 developer contributions
- (b) Family/local affiliation in letting and/or sale of local affordable housing and Gateway to Homechoice Allocations Policy

360. Scrutiny Panel Annual Report

Owen Howell, Democratic Services Officer, explained the purpose of this report and that the next Annual Report had been rescheduled to come to the Panel at its last meeting of the municipal year [rather than at the start of the next municipal year] so that this Panel could discuss and recommend it to Council, rather than wait until after elections, at which point membership of the Panel would likely change.

RECOMMENDED to COUNCIL that Council consider and approve Scrutiny Panel's Annual Report for 2021-22.

361. Haven Road Flooding

Mr Nick Chilvers attended and addressed the Panel pursuant to the provisions of Meetings General Procedure Rule 5(1) to give his concerns regarding the flooding on Haven Road. On 27 March 2022 he had asked Cabinet about the flooding and for details on the Council's actions relating to solving this problem, receiving an answer that the Council was engaged in inter-agency work to remedy the habitual flooding. Flooding still remained an issue on what Mr Chilvers noted as being part of the informal circular route around Colchester. Councillor Andrew Ellis, then Portfolio Holder for Housing and Planning, had suggested that more information be provided on the Council's website, however this had not been added as yet. Mr Chilvers

advocated that this issue should not be left to local councillors and that the Council had a role as a champion for residents and as an information provider. Mr Chilvers gave his view that the report before the Panel was too complex and technical, that better presentation and explanation was needed, and that information should be advertised and circulated widely. Mr Chilvers asked whether the report was for information of full scrutiny, and advocated that Cabinet encourage all stakeholders to work together to remedy the ongoing problems.

The Chairman explained why the report had come to Scrutiny Panel, at the request of a Panel member, and that the report was an update on the partnership working underway to remedy the issue of flooding and an opportunity for the Panel to ascertain whether there was any value it could add by scrutinising the Council's approach. The information given did not suggest that any delays had been caused due to any lack of Council financial resource, or by extended decision-making.

Panel members described and discussed the membership of the Hythe Taskforce and its work. After one year of operation, complications had been found, such as the presence of fresh water flooding, with Distillery Lane and Bourne Pond contributing to the problem. Essex Highways and Anglian Water were suggested as responsible agents. Issues were then found with haphazard piping in place to deal with drainage. A Panel member urged all stakeholders to contribute to funding the solutions needed to these issues.

The results of a feasibility study relating to a possible temporary pump was still awaited. The Fire Authority had indicated that it was happy to have personnel on call to operate this as and when necessary.

Concern was raised by a Panel member that there was a lack of scrutiny of the Hythe Taskforce's work, and it was asked whether the funding pot for tackling Haven Road flooding could take section 106 funding contributions.

A Panel member outlined the background of the Hythe Taskforce, which had been brought together by The Honourable Will Quince, MP for Colchester, who sat as the Chairman of the Taskforce. The Taskforce aimed to facilitate cooperation between the agents which had the funding and expertise needed to end the flooding. A Panel member suggested that Will Quince could be invited to attend a future meeting of the Panel to explain the situation and answer questions. One member argued that the Council still had a responsibility to solve the flooding, given its historic operation of a port at the Hythe, and its continued holding of land in the area. The Council had sold off its dredger many years ago, with a lack of dredging suggested by a member as contributing to localised flooding. The Panel discussed whether to recommend that Cabinet took a lead on identifying what action to take and were informed that, whilst the MP's office was not in a position to offer scrutiny of the Hythe Taskforce, Scrutiny Panel had some ability, within its terms of reference, to scrutinise functions outside of those which were the responsibility of Cabinet.

The Panel considered whether it believed that actions were proceeding at an acceptable pace, or whether a scrutiny process could be undertaken whereby the Panel received regular reports, to ensure progress was made. A suggestion was also made that the Council could potentially offer project management services to

assist the Taskforce, with the Panel making a recommendation to Cabinet to call for this to be offered. The Panel also discussed whether to recommend that Cabinet look to provide a temporary pump, however a consensus was reached that this was very unlikely to be agreed to, given the need for ongoing funding for its operation.

RESOLVED that Scrutiny Panel receive an update on the situation in around six-month's time.

RECOMMENDED to CABINET that Cabinet offers to provide the project management skills of the Council to assist the multi-agency Hythe Task Force in its work and in its efforts to identify and secure the funds necessary to resolve the flooding in the Haven Road area

362. Summary of previous Scrutiny Panel reviews into bus service provision

The Chairman explained that this report was a review of previous Scrutiny Panel considerations of local bus service provision, and aimed to help the Panel assess whether a further review could add value.

Mr Nick Chilvers attended and addressed the Panel pursuant to the provisions of Meetings General Procedure Rule 5(1). The most recent review was described, with Mr Chilvers noting that only Panther Travel not participating [of the providers of local bus services]. Covid had hit bus services hard, and traffic jams at the Osborne Street bus station site had caused additional problems. Mr Chilvers asked if the Council was pushing for improvements and whether it had any power to ensure that proper bus services were provided, including for any new development on the site of Middlewick Ranges. Mr Chilvers urged Scrutiny panel to examine local sustainable transport as a wider subject.

The Panel considered whether it would be likely that local bus operators would participate in a third Scrutiny Panel review of bus provision, and whether the Panel could potentially make useful recommendations. Concern was raised by members that the Council had no powers over bus services and could not run its own services. It was accepted that sustainable transport was a vital issue for the Borough, but with very limited scope for the Panel to add value, it was argued by one member that the Panel should concentrate on issues where there was the potential for it to add value to the Council's actions or decision making. It was noted by another member that the Panel could examine whether the Local Plan and any associated Council policies or strategies were being carried out appropriately, including external plans and strategies for which the Council was a partner organisation, such as the Town Centre Masterplan.

The Panel considered whether it wished to recommend that Cabinet look at the issue of bus service provision, in the context of the major policies and strategies currently underway. Several members agreed that a larger-scale examination of the issues at play would be a significant job, but likely worth doing. One member of the Panel argued that there had been some success from past Scrutiny Panel reviews, albeit that there was little the Council could do to push for better bus services. Bus station provisions for Colchester was within the Town Centre Masterplan, which could come to the Panel for Scrutiny.

The Panel discussed possible ways to help increase bus usage, including deals, offers and a circular hopper bus system around central Colchester.

RECOMMENDED to CABINET that Cabinet conducts work to consider and examine the potential ways in which the Council can push for improved bus service provision through the Borough, and promote its use by the public, in the context of the Council's current and emerging strategic plans and policies.

363. Work Programme 2022-23

Owen Howell, Democratic Services Officer, confirmed that additional items would be scheduled in for future meetings, in line with the resolutions laid down by the Panel during earlier agenda items at this meeting.

The Democratic Services Officer suggested that no additional items be added to the agenda for 16 August 2022, given the presence of two heavy items already on that agenda.

It was confirmed that, in line with the Panel's view that it would be too early in the year, the planned portfolio holder briefing for that meeting had been cancelled. The Officer emphasised that Scrutiny Panel members needed to set out what specific issues it wished to do in-depth scrutiny upon, with the relevant portfolio holder/holders in attendance, in order to allow officers to schedule these in for specific meetings.

The Panel directed that the following items be scheduled in to its work programme:

- Collection of Section 106 developer contributions
- Family/local affiliation in letting and/or sale of local affordable housing and Gateway to Homechoice Allocations Policy
- Scrutiny of a trial of local prioritisation for property purchasing [relating to a recent planning application]
- A further update on progress relating to the work of the Hythe Taskforce and remedial work to stop flooding on Haven Road
- The conducting of negotiations with Alumno [subject to Monitoring Officer's advice]

It was noted that the situation relating to Alumno was still ongoing and that this would almost certainly mean that any Scrutiny Panel examination of the topic would, at this point, need to be done in closed session. The Chairman argued that, as the Panel conducted its work on behalf of residents, it would not be good practice to conduct scrutiny behind closed doors. It was argued that this item should be included in the work programme provisionally, and be confirmed once open-session scrutiny was possible, without the danger of broaching commercially sensitive matters. It was suggested by the Chairman that the four items listed above could initially be reports to provide information so that the Panel could assess whether value could be gained by its consideration of them in greater depth at later meetings.

The Democratic Services Officer informed the Panel that he would seek officers' advice as to the scheduling of the extra items and then provisionally schedule these, in consultation with the Chairman and Lead Group Members.

A Panel member suggested that an additional item be tabled to examine air quality and measures to improve this. The Chairman counselled that this request should be formally made at the Panel's next meeting, under standard item 9(a) [Items requested by members of the Panel and other Members].

RESOLVED that the Scrutiny Panel: -

- (a) Approves its work programme and;
- (b) Directs the Panel's Clerk to work with officers to identify appropriate scheduling for the additional items requested by the Panel at this meeting, to be provisionally agreed with the Chairman and Lead Group Members.