

GOVERNANCE AND AUDIT COMMITTEE

7 September 2021

Present:- Councillor Kevin Bentley, Councillor Michelle Burrows, Councillor Adam Fox, Councillor Chris Hayter, Councillor David King, Councillor Steph Nissen, Councillor Leigh Tate, Councillor Dennis Willetts (Chairman)

Substitutions: None

Also Present:- Councillor Sue Lissimore, Portfolio Holder for Resources

271. Minutes of the previous meeting

RESOLVED that the minutes of the meeting held on 27 July 2021 be confirmed as a correct record.

272. Financial Monitoring Report – April to June 2021

Paul Cook, Head of Finance, attended the meeting to present the report and assist the Committee with its enquires. The Committee heard that the monitoring report for first quarter of the financial year 2021/2022 showed an expected outturn of £146,000 on the General Fund, with the Housing Revenue Account expected to be on budget by year end. Given the difficult circumstances of the previous year, it was felt that this was a very satisfactory financial position to be in. During the first quarter, Colchester Borough Council (the Council) had benefitted from the Ministry of Housing, Communities and Local Government (MHCLG) funding by way of an income loss grant which had helped the financial position significantly. It was considered that, taking into account the difficulties of the recent past, there was a good prospect to remain within budget in the current financial year, which would assist with setting the budget for the forthcoming financial year.

Councillor Willetts noted the inherent difficulty with predicting the end of year financial position so early in the financial year, but was pleased to hear that the finances appeared to be in a strong position. He queried the fact that money received via the government's income loss funding was not shown in the report against specific service items, which made it difficult to determine whether or not the services were actually in a good or bad position. Paul Cook confirmed that more detailed information was readily available on this subject, and agreed that he would circulate this to the Committee after the meeting.

Councillor Bentley requested that information on money that had been received from government be included in future monitoring reports in order to provide clarity to the public about where income had come from, and how it had been allocated.

Councillor King supported this request and would welcome additional clarity in future reports. He noted the projected forecast outturn of £146,000, and requested clarification on how much certainty could be placed on this estimate at this stage in the financial year. In addition, he noted a saving of £300,000 had been made on interest payable and a further £300,000 had been received by way of income support, and he requested confirmation that the total benefit of £600,000 had been factored into the calculations. He asked whether an overview of the risks and variables associated with the financial monitoring work could be given.

Paul Cook confirmed that the figures that had been identified had been included in all calculations, and he reiterated the difficulties associated with predicting the Council's financial position based on the relatively small amount of information that was available in quarter one. Early income forecasts tended to be prudent, and it was considered that the current position was a promising one as in previous financial years a higher predicted overspend had been forecast in quarter one. Because of the unusual circumstances there was a continuing need to be vigilant as long term economic recovery was not certain, however, the Council was in a good position at this stage, and this would be carefully monitored.

Councillor King sought additional clarity with regard to the managerial response in relation to the Council's waste services, seeking an assurance as to what steps had been taken to ensure the stability of the service as it sought to recover from the pandemic.

Rosa Tanfield, Group Manager – Neighbourhood Services, confirmed that the last eighteen months had been an incredibly challenging time, not only in relation to delivering the required services, but also ensuring that the Council's workforce had been protected, and it had been necessary to redeploy staff and make use of agency staff to ensure the continuation of service provision. Of key importance had been the support offered to staff during this time, and the Committee was assured that the budget of the service was monitored very closely to ensure that core services continued to be provided without reduction, and that these also represented good value for money.

In response to a request from the Committee, Paul Cook confirmed that future financial monitoring reports would include more information in relation to confidence limits associated with income prediction, to give the Committee a sense of how much volatility was associated with the financial position.

Councillor Willetts observed that information had been given in the report that income targets in relation to the trade waste function of the Council had not been met. Given that the collection of trade waste was not a statutory duty of the Council, he wondered why this activity had not been assigned to one of the Council's commercial companies to manage as profitably as possible.

Dan Gascoyne, Chief Operating Officer, confirmed that there were a number of reasons that the service was managed internally, including VAT advantages which meant that the Council could be competitive with commercial providers. Although using the Council's commercial companies had not been considered for the management of trade waste collection, it would be possible to consider this.

With regard to the loss of trade waste income, Rosa Tanfield explained to the Committee that over the past year many businesses had been impacted by the pandemic with the result that they had produced less waste, which had in turn impacted on the revenue generated by the trade waste service of the Council. The Committee heard that there was no particular reason that the trade waste service was delivered through the Council's Environmental Service, however, from an operational point of view trade waste collection fitted in very well with the Council's staff, existing fleet of vehicles and other services which were provided.

RESOLVED: that the Committee had the financial performance of General Fund Services and the Housing Revenue Account (HRA) for the first three months of 2021/22, and that the forecast budget overspend of £146k on the General Fund be noted.

273. Capital Monitoring Report Quarter 1 – 2021/2022

Councillor Bentley declared a non-pecuniary interest in this item by virtue of his role as Leader of Essex County Council, and the information presented in relation to the Shrub End Depot project.

Paul Cook, Head of Finance, attended the meeting to present the report and assist the Committee with its enquires. The Committee heard that capital expenditure had been £7.7m against a forecast programme of £84.7m, which represented an expenditure of 9% of the projected budget. This represented a slow start which was attributable to the labour and supply issues experienced as a result of the pandemic and represented a similar position to the last financial year. Careful monitoring would be required in quarters three and four to ensure that progress was delivered. The attention of the Committee was drawn to the schedule of projects set out in the report, each of which was attributed a red, amber or green (RAG) rating, with explanations for the rating provided.

Rosa Tanfield, Group Manager – Neighbourhood Services, attended the meeting to provide the Committee with an update on the Shrub End Depot project. The Committee heard that after a faltering start to the project, good progress was now being made, with changes being made to the site to improve things for staff as well as variety of works to ensure safety. In the coming weeks work would be undertaken which would include the provision of a new crew shelter, car park improvements, new fencing and drainage works. Work was continuing with design work on the larger elements of the project which would go to tender to determine the overall costs of the project. Although good progress was being made in all areas, the

Committee were reminded that as with all construction projects there remained some risks in relation to budget and timeline and in particular material availability. The Committee were assured that the project was the subject of close monitoring to ensure that value for money was obtained, and overall good progress was being made.

Councillor Willetts acknowledged the need for short term work to be carried out on the Shrub End site to improve facilities for staff to make it a safer and more comfortable site to work from. He noted that Essex County Council were considering a waste transfer station at Ardleigh, and sought assurances that the improvement works currently being carried out at Shrub End were necessary short term modifications and that the longer term plan would be to align with Essex County Council to ensure that improvements had value in the future.

Rosa Tanfield confirmed that the current works represented a short to medium term series of improvements which were targeted to meet the immediate needs of staff, and that wherever possible consideration was given to improvements made which could be adapted or moved if there was any change to the site in the future. The longer term position of the site had yet to be explored, and there were a number of things to consider including not only the recycling and refuse operation but also the Council's ambition to move to an electric vehicle (EV) fleet and the infrastructure needed to support this. The Environment Bill was also likely to have far reaching implications for the site, and all these factors needed to be given careful consideration to ensure that any changes that were made represented good value for money.

Councillor Lissimore, Portfolio Holder for Resources, assured the Committee that there was no intention to spend money on a site that was going to be scrapped, and of key importance was the fact that the project could be moved in the future if need be. The works that were being carried out would bring significant improvements to staff in the short term, and discussions had taken place with the Cabinet Member for Waste and Environment of Essex County Council with a view to establishing the long term future of the site to ensure that the best use was made of it.

Councillor King praised the work that was being undertaken to adapt the site to the current circumstances, and although he noted that project had taken a while to get off the ground he offered his full support to the project and was very pleased that it was taking place. Greater communications with Essex County Council were welcomed, however, he stressed that working with the County Council should not come at the detriment of the excellent waste collection and recycling services currently being provided by the Council.

Councillor Willetts advised the Committee that action that was taken on the Shrub End site would be the subject of a Cabinet decision, and the paper that had been presented to the Committee was for their information, and to note only.

Councillor Fox enquired what the potential of labour shortages and supply issues was for causing difficulties with the capital budget, and whether any specific work

had been carried out on the risk of inflationary pressures in the budget causing some of the capital projects to go over budget or become undeliverable.

Paul Cook confirmed that the Council was aware of inflation supply risks, and although some projects had already been tendered, this was something that would be considered carefully in the future. There would be a comprehensive review of the capital budget when setting the budget for the financial year 2022/2023. In response to a further question from Councillor Fox in relation to house prices associated with Council capital housing projects, the Committee heard that if a significant cost variation was identified then this would be reported to Cabinet.

Councillor Willetts noted that a comprehensive review had been carried out of the capital programme and wondered whether or not the difficulties currently being experienced in the building trade with regard to the supply and cost of materials had been factored into the project RAG ratings. Paul Cook advised the Committee that as far as possible all these factors had been considered, and that at the start of the financial year it had not been certain that progress would be able to be made on capital projects at all, but thankfully the position had improved since then. More detailed analysis would be provided as part of the quarter two monitoring report presented to the Committee.

Councillor Bentley suggested that capital projects should be accompanied by a risk register in order to monitor the impact that external factors could have on projects to ensure clarity for the public. He noted that the Stanway Community Centre project had a shortfall of money, and he wondered what confidence there was that the shortfall could be made up, and from where.

Paul Cook confirmed that when projects were brought into the capital programme, funding assumptions were made in order to calculate the budget but that these assumptions were subject to change and would be picked up at the next review. With regard to risks, the Committee were advised that the Council took a corporate approach to risk management and it was essential that a balanced approach be adopted to any risk reporting associated with capital projects. Further consideration could be given to risk management as part of the next monitoring report.

Councillor King considered that it was important to understand the pressures that were being faced, and how these fitted into budgetary position. When considering the RAG ratings for the capital programme, Councillor King felt that the number of red and amber rated projects could be cause for alarm, and he sought assurance that there was confidence that the programme would be able to be delivered, with more information on risk and contingency presented to the Committee in the future.

By way of response, Dan Gascoyne gave his opinion that the number of red and amber RAG ratings assigned to projects was not cause for alarm, but rather evidence of clear analysis and transparency when considering projects. The Committee were reminded that the report only dealt with quarter one, and that more detailed updates would be expected as the year unfolded. Assurance was given that the programme was carefully monitored by the Council's Senior Management Team and Officers, and all the risks associated with projects were being actively managed.

Councillor Willetts noted the difficulty that had been experienced with the procurement of vehicles for the Council's fleet to replace and upgrade existing vehicles, and he wondered if an opportunity had presented itself to re-tender for vehicles which were not powered by internal combustion engines, but rather by electric or hydrogen engines, and which would therefore support the Council's own climate emergency declaration. Dan Gascoyne confirmed that the schemes which had been referred to were consistent with the Council's fleet transition strategy which would deliver carbon neutrality by 2030. Although there may be an opportunity to re-tender with different contract specifications, the delays that this may incur could lead to additional expense. Rosa Tanfield confirmed to the Committee that since the report had been published, significant progress had been made with regard to the procurement of caged tipper vehicles, and this project was now moving towards a green RAG rating. The other project that had been referred to by Councillor Willetts was light fleet replacement, which was concerned with the procurement of electric vehicles (EV) which the first step to bringing in an EV fleet, together with the necessary infrastructure to support this.

RESOLVED: that the contents of the report be noted.

274. Treasury Management – Annual Review 2020/2021

Paul Cook, Head of Finance, attended the meeting to present the report and assist the Committee with its enquires. The Committee heard that the financial year 2020/2021 had been a fast moving year from the point of view of treasury management, and the receipt of significant sums of money from MHCLG with very little warning had made it difficult to invest this money sensibly on the money markets. Praise was offered to Officers who had done a fantastic job in delivering a successful treasury management strategy under these circumstances. Because of delays to capital projects, there had been a reduced need to borrow at the anticipated level, and it was considered that the year had been a very successful one. It was confirmed to the Committee that there had been no significant changes to the Treasury Management Policy, and it was confirmed that the Council had a 'low risk appetite' towards investments.

Councillor King made an enquiry for some context around the borrowing limits of the Council, and how close to the limits of what was possible was the Council currently operating. Paul Cook confirmed that the borrowing that took place was based on affordability, and a lot of the Council's borrowing related to the housing revenue account which was the subject of a thirty year business plan which was constantly evolving. As part of the capital programme review, care was taken to ensure that there was sufficient provision for the Council's planned borrowing requirements. Mark Jarvis confirmed that the Council needed to be careful with its borrowing, and that this was monitored on an annual basis. With regard to the Turnstone development, Councillor King presumed that this was still on track, and that there may need to be an adjustment to the Council's borrowing limit to reflect this. It was confirmed that it was a technical requirement that it was necessary to account for

part of the Turnstone funding against these limits, but the scheme was going forward as had been reported to Cabinet.

RESOLVED that:

- The Committee noted the Treasury Management Annual Review for 2020/2021
- The Council's increase in borrowing to fund the capital programme be noted
- The Committee noted the satisfactory performance of Link Asset Services

275. Revised Timetable to finalise the audit of the Statement of Accounts 2020/2021

Paul Cook, Head of Finance, attended the meeting to present the report and assist the Committee with its enquires. The Committee heard that the Finance Team had done very well to prepare the draft Statement of Accounts within a very tight timescale, but unfortunately the Council's external auditors, BDO, had been delayed due to escalating audit requirements both locally and nationally. Following discussions with BDO, it was now proposed to present the draft Statement of Accounts to The Governance and Audit Committee at its November meeting. The Committee were assured that it was very rare for the draft Statement of Accounts to be presented to the Committee late, and there was little that officers could do to remedy this apart from providing BDO with the resources that they needed. Confidence had been expressed that the draft Statement of Accounts would be ready to present to the November meeting of this Committee. The reason for the delay would need to be published on the Council's website.

Mark Jarvis, Finance Manager, confirmed that the audit had now commenced, and it was planned to finish the main work required by the end of October to facilitate the presentation of the report to the Governance and Audit Committee in November. #

Councillor Willetts noted that it was particularly galling that officers had worked extremely hard to support the audit, only to be let down by the Council's external auditor.

Councillor Bentley asked for clarification on the reason for the delay, and further wondered whether this would be reflected in the fee that the Council was charged for the audit service. Paul Cook explained that unfortunately the fee would not be reduced, and in fact fees were likely to increase over the coming years. The reasons for the delay included delays in the audits of other local authorities and the lack of resources to carry out the audits, and it was felt that the planning had been unsatisfactory. The situation was a national one which was being looked into by MHCLG and Public Sector Audit Appointments (PSAA), and the new potential regulatory body for external audit. Better results were hoped for in the future, but the situation was being monitored very closely. Councillor Bentley suggested that a strongly worded letter be written by the Chair of the Governance and Audit Committee expressing dissatisfaction with the position, a suggestion that was fully supported by Councillor Fox. He stated that having the Council's accounts audited

was an important part of good governance, and Colchester Borough Council was clearly not the only local authority that had been placed in this position. Councillor Fox suggested that it may be more appropriate to write to the Secretary of State and PSAA, together with the local Members of Parliament, to put on record strongly but politely the Committee's displeasure at the state of the system. Councillor King added his support for the proposal, and was keen to emphasise that officers were not to blame for this situation.

RESOLVED that:

- That the revised timetable for the presentation of the draft Statement of Accounts be noted
- The requirement to issue a public notice for late publication of the Statement of Accounts be noted
- A letter be written expressing the displeasure of the Committee to the Secretary of State and Public Sector Audit Appointments.

276. Review of the Council's Processing of Special Category & Criminal Convictions Personal Data Policy

Nicola Cooke, Information Services Manager, attended the meeting to present the report and assist the Committee with its enquiries. The Committee were advised that Colchester Borough Council (the Council) had a need as a local authority to have a policy that covered the processing of the Council's Special Category and Criminal Convictions Data, and this Policy was a requirement of the Data Protection Act 2018. The proposed Policy covered additional information which was processed under certain circumstances, and covered the distinction between personal data, special category data and criminal convictions information. There were only a limited number of areas of the Council which processed this kind of data routinely, however, there was a requirement to implement measures to ensure the safety of personal data. The proposed Policy was a new Policy which the Committee were asked to read, review and approve for inclusion in the Council's Policy Framework.

Councillor Willetts praised the clarity of the proposed Policy, and expressed surprise that the information classed as special category data was not already covered by the Council's procedures which had been designed to provide comprehensive protection to personal data. He enquired whether there was, in reality, a real change in what the Council had to do to, to meet the requirements of the legislation in respect of special category data.

Nicola Cooke confirmed that the Council's processes and procedures were already in line with the requirements of the legislation, however, when the legislation had been introduced there had been significant ambiguity as to whether existing data protection policies would cover the processing of special category data. The Council had initially included special category and criminal conviction data within its original Data Protection Policy, however guidance now issued by the Information Commissioners Office stated that two separate policies were required. The Committee were assured that all the correct processes and procedures were being

followed, and had always been followed, with regard to the legislative requirements of processing special category data, and appropriate controls were in place. It was confirmed to the Committee that existing information technology that was used was already compliant with the requirements of the Policy, and a data protection impact assessment was carried out when a new computing system was introduced to ensure that the required safeguards remained in place. In addition to this, as part of the Council's procurement process, suppliers were now being asked what measures they put in place to ensure that data was secured, particularly in cloud based systems.

Councillor Bentley voiced his support for the proposed Policy, and considered that its implementation was necessary and appropriate.

RESOLVED: that the Processing of Special Category & Criminal Convictions Personal Data Policy be adopted and *RECOMMENDED TO COUNCIL* that it be included in the Council's Policy Framework.

277. Work Programme

Matthew Evans, Democratic Services Officer, attended the Committee to present the report and assist the Committee with its enquiries.

RESOLVED that: the content of the Work Programme be agreed.