

MEETING: AC.12 13:14
DATE: 24 April 2014

South Somerset District Council

Draft Minutes of a meeting of the **Audit Committee** held in the Main Committee Room, Council Offices, Brympton Way, Yeovil on **Thursday 24 April 2014**.

(10.00 am – 11.00 am)

Present:

Members:

Derek Yeomans (Chairman)
John Calvert
Tony Lock
Ian Martin

Terry Mounter
David Norris
John Richardson
Colin Winder

Officers:

Donna Parham
Amanda Card
Anne Herridge
Neil Waddleton
Mark Williams

Assistant Director (Finance & Corporate Services)
Finance Manager
Democratic Services Officer
Section 106 Monitoring Officer
Chief Executive

Also Present:

Andrew Ellins

Audit Manager SWAP

Others:

Tim Carroll
Tim Inglefield

SSDC Councillor
SSDC Councillor

94. Minutes (Agenda Item 1)

The minutes of the meeting held on the 27 March 2014, copies of which had been circulated, were taken as read and, having been approved as a correct record, were signed by the Chairman.

95. Apologies for Absence (Agenda Item 2)

Apologies for absence were received from Cllrs Roy Mills and John Dyke.

96. Declarations of Interest (Agenda Item 3)

There were no declarations of interest.

97. Public Question Time (Agenda Item 4)

No questions or comments were raised by members of the public.

98. Section 106 Agreements – Discharge of Planning Obligations (DPO) (Agenda Item 5)

The Audit Manager - SWAP (South West Audit Partnership) presented the report as detailed in the agenda, he explained that SWAP had been tasked with the audit of the approved process and the compliance with that process. This had now been tested by SWAP and given a “substantial assurance” opinion. The report showed the risks that had been tested and their findings. The Auditors reviewed all 11 DPO applications received to date as part of their review. They had made no recommendations for improvements or changes at the conclusion of their investigations.

For clarity the Audit Manager – SWAP read the following from the report:

‘The current process as adopted by South Somerset District Council for considering any applications to vary or discharge obligations requires that the developer pays for an independent assessment of their viability case. This assessment is carried out by a specialist valuer from the District Valuer’s Office who then issues the Council with a formal written report and set of recommendations. Agreeing to a reduction in the obligations should always be the last resort and officers are required to consider other options first as approved by the District Executive report in April 2011.

In the event that a reduction in contributions is the only option to ensure the development can still go ahead, then as that reduction is based on market forces and costs at that time, a new agreement is entered into with the developer requiring additional payments to the Council should market conditions improve in the intervening period up to the amount secured by the original obligations (overage clauses).

All applications which require a material change in contributions must be determined by the relevant Area Committee. Whilst some of the information that is considered may be commercially sensitive and not for public view on that basis, members can determine what information they require in order to make the decision. It would be possible for the Committee to go into confidential session to consider the most sensitive information whilst at the same time ensuring that as much of the information and process is open to the public as is reasonably possible.

Members are faced with a fine balancing act between ensuring that enough money is recovered to put in the infrastructure generated by the new development whilst at the same time ensuring sites are viable enough to enable the development to proceed within a realistic timescale. If the Council refused an application or did not agree to the full amount of the variations requested then the applicant has the ability to appeal to the Secretary of State’.

He also clearly read the conclusion from the report:

‘The purpose of this audit was to verify that all DPO applications are dealt with care and agreed procedures are followed. All of the areas reviewed were found to be working in a satisfactory manner. The Council have to date received eleven DPO applications seeking to discharge/modify S106 agreements in relation to financial obligations. All

cases have followed the agreed process for handling these types of application and have gone to the relevant Committee for final determination. All cases have been on grounds of financial viability with the developer able to show that their scheme is unable to make part of obligations detailed within their relevant S106 agreement.'

In response to a query from Cllr Tim Inglefield, the Audit Manager replied that the auditors had looked at both the procedure and the process to vary or discharge obligations. He also confirmed that note had been taken of the letter sent by the chairman of AEC (Area East Committee) to the chairman of the AC (Audit Committee) which raised concern about the assessment of viability of a development and considered that the process by which that had been determined had fallen down. The Audit Manager confirmed that there were now good processes and procedures in place.

Cllr Tim Inglefield referred to two requests within Area East to discharge the planning obligations. AEC had initially resolved to defer the cases until further information regarding details of how the developer, YHG (Yarlington Housing Group), secured their finances and wanted an explanation of how the situation had changed from the time at which the original planning obligation had been signed to the request for a discharge of those obligations. Both applications were later approved subject to an amended recommendation once councillors had received additional information. Cllr Inglefield felt that in the future the process still needed to be tidied up and members should be able to view confidential information such as that which was commercially sensitive before making a decision.

The Section 106 Monitoring Officer explained that both the requests that Cllr Inglefield referred to had been approved in confidential session with the Managing Director of YHG who referred to figures in the confidential paperwork circulated to members of AEC together with the DV's (District Valuer's) report. Cllr Inglefield outlined his concern about how the viability of a development was tested and the criteria used.

In response the Chief Executive replied that the applicant's assessment of viability was only the starting point in the consideration of a discharge of a planning obligation. The viability would then be assessed by an experienced specialist valuer from the DV's office. If the request was considered not to be reasonable, relevant advice would be given.

Discussion then ensued where the following comments were made some of which included:

- SSDC could not analyse all the figures themselves and had to rely on experts such as the DV to ensure independence in the assessment;
- The viability test was set in Case Law and refers solely to the viability of a particular site;
- There were overage clauses included where appropriate;
- SSDC Audit Committee were challenging the issues but a similar approach was not apparent at SCC in how decisions were reached and carried out;
- Felt that had AEC not queried the process the issues may not have been discussed;
- Councillors could ask for more information if needed at any time during consideration;
- Felt the issue should be considered in the public domain wherever possible and not in confidential session;
- The report should produce a list in a simple form regarding what had changed in order for members to make an informed decision.

The Chief Executive responded that it was up to Councillors to make the ultimate decision about whether the information should be discussed in confidential session or not, as laid

out in the SSDC constitution under exempt information. He agreed that he would send a letter to Michelle Cusack of SCC on behalf of Audit Committee members relaying their concerns about the lack of a system of regulating SCC's portion of S106 obligations.

In conclusion the Chairman felt that due to the complex criteria particularly for YHG applications, councillors needed to be able to rely on the opinion of the specialist valuers. He asked members to take note of the agreed suggestions that had already been made during the AC meeting held on 28th November 2013 to strengthen the process, and reiterated the following suggestions:

1. The variables outlining the changes required were clear;
2. The District Valuer should be invited to attend all area committee meetings when considering the variation or discharge of Section 106 obligations;
3. That closed sessions were in place so that members could view and discuss confidential information.

The Assistant Director (Finance & Corporate Services) confirmed that a follow up report would be on the Audit Committee forward plan in one years' time to see how the processes had been used and details of performance. She would also ensure that councillors received a copy of the letter to be sent out by the Chief Executive.

RESOLVED:

The Audit Committee:

Noted the report from SWAP (South West Audit Partnership).

and confirmed the following suggestions made at Audit Committee meeting held on 28th November 2013:

1. The variables outlining the changes required were clear;
2. The District Valuer should be invited to attend all area committee meetings when considering the variation or discharge of Section 106 obligations;
3. That closed sessions were in place so that members could view and discuss confidential information.

Lead Officer: Donna Parham, Assistant Director – Finance and Corporate Services

Contact Details: donna.parham@southsomerset.gov.uk or (01935) 462225

99. Accounting Policies for 2013/14 Statement of Accounts (Agenda item 6)

The Finance Manager presented the report as detailed in the agenda. She explained that there had been no major changes to the Accounting Policies this year but there was a statutory requirement for all local authorities to produce financial statements that were compliant with International Financial Reporting Standards (IFRS). In order to prepare IFRS compliant accounts for 2013/14, the Council needed to revise its accounting

policies. She asked members to note the amended recommendation to read: - That Audit Committee members approve the Accounting policies.

An information booklet titled 'A guide to local authority accounts' was handed to members.

The chairman thanked the officer for the glossary that accompanied the report; he felt it was important that AC members understood the financial terminology associated with this and other Audit reports.

Members were content to approve the policy.

RESOLVED:

That Audit Committee members approve the Accounting Policies.

Lead Officer: Amanda Card, Finance Manager
Contact Details: amanda.card@southsomerset.gov.uk or (01935) 462542

100. Audit Committee Forward Plan (Agenda Item 7)

Reference was made to the agenda report, which informed members of the proposed Audit Committee Forward Plan. The Assistant Director (Finance & Corporate Services) asked members to note that the Risk Management update report would be added to the forward plan for the AC meeting to be held on 24 July 2014.

RESOLVED: that the Audit Committee Forward Plan be noted as attached at Appendix A.

Lead Officer: Anne Herridge, Committee Administrator
Contact Details: anne.herridge@southsomerset.gov.uk or (01935) 462570

101. Date of Next Meeting (Agenda Item 8)

Members noted the date of the next meeting of the Audit Committee would be held on Thursday 29th May 2014 at 10.00am in **Committee Rooms 3 & 4** the Council Offices, Brympton Way.

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Chairman