

**MINUTES OF THE MEETING OF THE RESOURCES AND SERVICES OVERVIEW  
AND SCRUTINY COMMITTEE,  
HELD ON MONDAY, 5TH JULY, 2021 AT 7.30 PM  
IN THE PRINCES THEATRE - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors M Stephenson (Chairman), Allen, Barry, Codling, Griffiths, Harris and Wiggins
<b>Also Present:</b>	Councillor P Honeywood (Portfolio Holder for Housing)
<b>In Attendance:</b>	Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Tim Clarke (Assistant Director (Housing and Environment)), Keith Simmons (Head of Democratic Services and Elections), Keith Durran (Committee Services Officer) and Matt Cattermole (Communications Assistant)

**10. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were also submitted on behalf of Councillor Land (with no substitution), Morrison (with no substitution) and Scott (with Councillor Wiggins substituting)

**11. MINUTES OF THE LAST MEETING**

It was **RESOLVED** that the Minutes of the meeting of the Committee held on Monday 24 May 2021 be approved as a correct record.

**12. DECLARATIONS OF INTEREST**

Councillor Harris declared a personal interest in item 5, "Use of section 106 Monies" (Minute 14 below refers) , as he was a Member of the Council's Planning Committee and, as such, was directly involved in decisions by that Committee relating to the secured of agreements under Section 106 of the Town and Country Planning Act 1990 ('section 106 monies').

**13. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

On this occasion no Councillor had submitted notice of a question.

**14. REPORT OF THE DEPUTY LEADER/PORTFOLIO HOLDER FOR CORPORATE FINANCE AND GOVERNANCE. - A.1 - USE OF SECTION 106 MONIES (TO FOLLOW)**

It was reported to Members that Section 106 (S106) Agreements were legal agreements under section 106 of the Town and Country Planning Act 1990 between Local Authorities and developers; linked to planning permissions and could also be known as planning obligations. Section 106 agreements were drafted when it was considered that a development would have significant impact on the local area that could not be moderated by means of conditions attached to a planning decision.

By way of example, the Committee was advised that a new residential development could place extra pressure on the social, physical and economic infrastructure which already existed in a certain area. A planning obligation would aim to balance the pressure created by the new development with improvements to the surrounding area ensuring that where possible the development would make a positive contribution to the local area and community. The agreement could provide for a financial contribution (often referred to as an off-site contribution or commuted sum) to be made or a particular scheme or improvement could be undertaken by the site developer.

The Committee heard that the S.106 would vary depending on the nature of the development and based on the needs of the District. The most common obligations included:-

- Public Open Space
- Affordable Housing
- Education
- Highways
- Town Centre Improvements
- Health

The Committee also heard that the quarterly report was published on the Council's website to show how and where contributions had been spent and the Infrastructure Funding Statement showed in more detail the funds received and allocated to projects across the District. The statement provided a summary of financial contributions the Council had secured through Section 106 agreements from new developments for off-site open space, affordable housing and regeneration work along with highway works completed as part of new developments through agreements under section 278 of the Highways Act 1980 ('Section 278 agreements').

In summary, the report provided:

- an overview of what S106 and S278 agreements were
- the Council's internal process relating to S106 contributions
- the s106 contributions paid to the Council in the current year
- s106 contributions and s278 works committed for future years
- projects delivered in the District via S106 and S278 agreements in the current year

It was reported to the Committee that the Council's Planning Service maintained a register of S106 agreements and obligations. A schedule of sums was available, the intended purpose and location was maintained and updated within the service by a specific officer. The schedule was periodically discussed with managers with particular regard to any sums that may have been available for a limited remaining period. Service managers for the intended purpose of the sums were responsible for identifying potential schemes. Allocations and spend were tracked and reports through the Council's financial reporting systems and high level budget monitoring.

It was also reported that Affordable Housing sums were generally spent on housing acquisitions and could be used in combination with capital receipts from Right to Buy Sales and other capital funding within the Housing Revenue Account. Purchases were considered with reference to the Housing Acquisition & Development Policy and

ensured they meet the criteria the Council had adopted. Each proposed acquisition was then subject to discussion between finance and housing officers and a final decision on what funding was used was made either in the Cabinet report or portfolio holder decision that was taken to make the purchase. In 2020/21 £261,000 was spent from S106 funding on housing acquisitions.

Members heard how the sums allocated for public space were identified for use by the Head of Public Realm and often that was set out in the S106 agreement itself. The Head of Public Realm engages with Town and Parish councils and Ward Members as required to ensure provision met local need. The intention was to use funds to meet local needs and improve public realm in line with corporate priorities. In addition to the governance of the planning service aimed at using funds for the intended purposes in intended locations the Council's normal decision making processes applied to schemes including development of land and expenditure of sums.

A recent example of a completed scheme was a new play area created off Halstead Road Kirby Cross. S106 monies were used to create a significant new equipped play area for local use. An example of a project in development was an upgrading of the flood memorial at Harwich. The scheme was initiated by local members and potentially, subject to approvals, included a repositioning of the memorial itself, new paving, lighting and Mural.

During the discussion on this item, there were several Members who could not recollect being consulted on individual proposals for use of S106 funds in the Wards they respectively represented. It was also commented upon that, while the reporting on the use of S106 funds in parished areas of the District gave quite a good localised set of data, reporting for the unparished area of the District was solely categorised as 'Clacton' and therefore of limited value to Councillors and the public. The discussion further highlighted that there were unaccounted sums in the current reporting on the Council's website in respect of S106 monies. The Council's Assistant Director for Finance and IT indicated that this appeared to him to relate to committed funds not being shown.

After an informative discussions the Committee **RECOMMENDED TO CABINET** that:

1. To the extent that it is not happening at present, details of the proposed schemes using S106 funds in a particular ward be advised as a routine to the local Ward Councillor(s) and consideration be given to the views expressed by the Ward Councillor(s) on the proposed scheme before and decisions are taken to implement the scheme.
2. That, for those parts of the District that are parished, the relevant Town or Parish Council be advised about S106 funds that had been secured and whether they could bid for schemes to be funded or identify schemes for officers to consider.
3. That, for those parts of the District that are un-parished, the locality descriptor should be the relevant District Ward rather than 'Clacton' so as to improve the understanding of the figures shown for that area.

4. That an annual statement be made on the amounts of monies received in S106 funds, the total sum held by the Council in S106 funds and the sums spent on schemes in that year against the common obligations of:
  - Public open space
  - Affordable Housing
  - Education
  - Highways
  - Town centre Improvements
  - Health
5. To note the commitment if the Council's Assistant Director for Finance and IT that the S106 spreadsheet publicly available on the Council's website would be amended to include commitments so that the sums shown are clear and complete.

**15. REPORT OF THE PORTFOLIO HOLDER FOR HOUSING. - A.2 - AN UPDATE ON VOIDS (TO FOLLOW)**

The Portfolio Holder for Housing, Councillor Paul Honeywood, attended the meeting and addressed the Committee; responding to questions on the items referenced here. The Assistant Director for Housing and Environment was also present and addressed the Committee on the matters here.

The term 'Voids' relates to untenanted Council Homes and most commonly occurred between one tenant leaving the property and a new tenant moving in. Void works was therefore the required refurbishment etc works before the new tenant moved into the property after the previous tenant had left.

**Implementation of the New Maintenance Contract**

The Committee received a report in relation to the new responsive repairs term contract and how the appointed contractor had commenced responsibility for void works on 05 April 2021. Officers considered that was appropriate to make allowance during the initial stages of the contract and some initial performance issues had been discussed with the contractor.

It was reported to the Committee that the initial set up period of the contract had ended in July 2021 and liquidated damages provisions in the contract would start to take effect from that point. The damages level was set to allow for lost rent and increased administrative and other costs but would apply only to the period during which the contractor had control of the properties. The time allowed for works within the contract was related to the extent of works required with a series of thresholds providing different timescales for different levels of work.

Once contract arrangements became fully established it was hoped that all properties would be returned within timescale or any delay offset, financially, by the liquidated damages provisions.

The detail of the contract provisions, including the liquidated damaged provisions relating to the contractor, could be provided to the Committee if that was requested.

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### Points raised following the All Member Briefing in April 2021

1. *“Expected inspection rate of a TDC property and what was the actual inspection rate”?*

Members heard how the repairs and estates services for individual properties operated on an essentially responsive basis. Regular visits to dwellings did take place in the form of annual gas servicing and safety visits, electrical and detector testing and servicing and, away from those visits, the teams respond to concerns raised by tenants. Some Committee Members asked about the potential for reports to the Council from its gas/electrical service checks as to concerns about maintenance of the properties inspected. The Assistant Director for Housing and Environment indicated that such reports could be actioned.

The potential for additional inspections had been considered both in response to the voids condition question but also in relation to potential disrepair claims. That would however introduce additional costs that have to be assessed against the likely benefits achieved.

In response to a line of questioning, the assistant Director for Housing and Environment reported that some initial consideration had been given to a full stock condition survey of the Council’s residential properties which could be outsourced for a relatively speedy survey or brought in-house with additional resource to the existing team and conducted over a longer period of time. The Portfolio Holder indicated that if such stock condition surveys identified additional works were needed the Council would need to address the funding of those additional works. Such a survey could assist the Council with its Net Carbon Neutral Climate Change pledge. Further consideration of this concept would need to be given.

2. *“What percentage of returned properties are left empty, clean and requiring no repairs caused by resident damage”?*

The Committee was advised that it was very rare for properties to be returned clean, empty and free from defect. In 2020/1 the Void maintenance costs built up was:

£0-£500	5 Properties
£500-£1000	8 Properties
£1000-£5000	73 Properties
£5-0000- £10,000	54 Properties
£10,000- £20,000	19 properties
Over £20,000	1 Property

The average cost of voids on void properties was not available at the meeting.

A Councillor referenced that, using the above figures, the cost of maintenance for the ‘worst’ 20 properties was likely to be between £210,000 and £400,000. Members of the Committee considered that some mechanism for achieving reports on those properties, and recovering those costs from the former tenants, would therefore help reduce that financial penalty going forward.

3. *“Annual cost of clearing / cleaning / repairing properties left in a poor state by residents, and how much of this money is reclaimed annually”?*

1. The total cost of clearing properties was £177,000
2. The total cost of all void works was £937,082
3. No cost was reclaimed from any former tenant in 2020/21

The Committee was advised that a revised tenant recharge policy had been agreed earlier that year that set out the circumstances in which attempts would be made to recover costs from former tenants. However, to date no recharges under the policy had been made to former tenants.

### **Void Duration**

The assistant Director for Housing and Environment reported that there were, at the date of the meeting 179 void Council dwellings; 130 were general stock dwellings and the remaining 49 were in the sheltered housing stock. Of those 61 were ready to be re-let to new tenants. The average time dwellings were void was not reported to the Committee.

It was reported to the Committee that 2020/21 saw an increase in the length of time properties remained vacant. Largely that was attributable, it was said, to the COVID-19 pandemic and restrictions placed on the letting of properties and the ability and desire from people to move home. However, the Committee was advised that the Council's void rate had increased prior to the pandemic. It was said that other stock retained councils had reported a rise in void properties during 2020.

The requirement to work from home had an impact of the Allocations Team and there was no doubt in the minds of officers that the process of letting properties became more challenging and time consuming over the last 12 months or so.

It was also reported to the Committee that Void maintenance works were slowed during the pandemic to some degree in the general housing stock and paused altogether (save for safety work) in the sheltered units. Rental income lost as a result of void properties for the 2020/21 financial year would be published within the financial performance report in September 2021.

Members heard that in February 2021 an officer working group was set up to address the increase in void times and consequent financial loss. A new monitoring system had been introduced that allowed the allocations and building services teams to share data and track progress with individual properties. Previously that data had been held separately. Some operational processes had also been streamlined.

At the time of writing the report, the end of the first quarter of the financial year 2021/22 had not been reached although officers were optimistic that the void rental loss would show improvement that would continue throughout the year.

The Committee was advised that the month of July 2021 had seen a significant focus on letting the properties that were available and developing a strategy for letting vacant sheltered flats and lower demand properties. Additionally, new housing allocations software would be introduced that would improve the process of managing the housing

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register and allocating vacant properties. Implementation of that system had been delayed due to technical difficulties identified during testing.

#### **Achievement of a 2% void rate**

Previously a 2 – 3% void rate was achieved and on that basis officers believe it is possible to return to that level, especially in respect of general stock housing. Due to the age and nature of some of our sheltered housing schemes it may be more difficult to achieve a lower rate without more drastic action.

Comparisons of void rates with other stock retained Councils were not presented to the Committee as officers considered that these could be misleading. Nonetheless, achieving a return to this Council's 2% figure appeared possible in light of the rates reported by others.

After an in-depth discussion on the matter it was unanimously **RESOLVED** to continue the enquiry of this matter through organised but informal remote meetings of the Committee's Members and appropriate officers/the Portfolio Holder, as there were a number of items that it had not been possible to conclude at this formal meeting as identified above. The outcome of the informal remote meetings would be presented to the next/a future meeting of the Committee.

#### **16. SCRUTINY OF PROPOSED DECISIONS**

Pursuant to the provisions of Overview and Scrutiny Procedure Rule 13, the Committee reviewed any new and/or amended published forthcoming decisions relevant to its terms of reference with a view to deciding whether it wished to look into any such decision before it was taken. The relevant forthcoming decisions were before the Committee. The Committee noted the submitted list of publicised forthcoming decisions.

#### **17. REPORT OF THE HEAD OF DEMOCRATIC SERVICES & ELECTIONS - A.5 - REVIEW OF THE YEARS 2019-2021 AND WORK PROGRAMME FOR 2021/22 FOR THE RESOURCE AND SERVICES OVERVIEW AND SCRUTINY COMMITTEE**

The Committee had before it the Overview and Scrutiny Committees Report for the years 2019-21. The Members thanked the Keith Simmons, the Head of Democratic Services and Elections, for the report, asked that their thanks be conveyed to those other officers involved in its production. It was **RESOLVED** to approve the Annual Report as submitted and to invite Council to receive the report.

The Committee also had before it the Work Programme for the Committee for 2021/22.

After a short discussion it was **RESOLVED** that the following change to the Work Programme for 2021/22 be approved:

- the Disabled Facilities Grant item be taken off agenda for the 20 September 2021 meeting, but be left on to work programme to be programmed at a future date.

The meeting was declared closed at 9.52 pm

**Chairman**