

MINUTES OF A MEETING OF THE
AUDIT AND GOVERNANCE COMMITTEE
HELD IN THE COUNCIL CHAMBER,
WALLFIELDS, HERTFORD ON TUESDAY 15
NOVEMBER 2022, AT 7.00 PM

PRESENT: Councillor M Pope (Chairman)
Councillors S Bell, K Crofton, R Fernando,
A Huggins and A Ward-Booth

ALSO PRESENT:

Councillors G Williamson and P Ruffles

OFFICERS IN ATTENDANCE:

Michele Aves	- Democratic Services Officer
Jackie Bruce	- Infrastructure Contributions and Spend Manager
Steven Linnett	- Head of Strategic Finance and Property
Ben Wood	- Head of Communications, Strategy and Policy

ALSO IN ATTENDANCE:

Simon Martin	- Shared Internal Audit Service
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An apology for absence was received from Councillor Alder.

209 MINUTES - 19 JULY 2022 AND 29 SEPTEMBER 2022

It was moved by Councillor Fernando and seconded by Councillor Ward-Booth that the Minutes of the meeting of the Committee held on 19 July 2022, be confirmed as a correct record and signed by the Chairman. After being put to the meeting, and a vote taken, this motion was declared CARRIED. It was noted that Councillor Huggins abstained from the vote as he was not present at the meeting of the Committee on 19 July 2022.

RESOLVED – that the Minutes of the Committee meeting held on 19 July 2022, be confirmed as a correct record and signed by the Chairman.

It was moved by Councillor Crofton and seconded by Councillor Huggins that the Minutes of the meeting of the Committee held on 29 September 2022, be confirmed as a correct record and signed by the Chairman. After being put to the meeting, and a vote taken, this motion was declared CARRIED. It was noted that Councillor Fernando abstained from the vote as he was not present at the meeting of the Committee on 29 September 2022.

RESOLVED – that the Minutes of the Committee meeting held on 29 September 2022, be confirmed as a correct record and signed by the Chairman.

210 CHAIRMAN'S ANNOUNCEMENTS

The Chairman reminded participants to use their microphones when speaking as the meeting was being webcast.

211 DECLARATIONS OF INTEREST

There were no declarations of interest.

212 SECTION 106 UPDATE REPORT

The Infrastructure Contributions and Spend Manager introduced the report which was the third annual Section 106 Update to the Committee and included Appendix A – East Herts Council Annual Infrastructure Funding Statement 2021/2022. She highlighted the key points included in the Annual Infrastructure Funding Statement and said that the statement would be published on the Council's website and submitted to Central Government once reviewed and received by the Committee.

The Infrastructure Contributions and Spend Manager said that she had been specifically asked by the Committee for detail on how she dealt with late payments. She advised that all new Section 106 agreements contain a clause to cover any late payment of contributions by the developer, with late fees and compound interest added. She said that no late payment fees had been charged since 2020, due to a complete review of agreements and her positive relationship with developers.

The Infrastructure Contributions and Spend Manager drew Members' attention to the potential legislative changes to Section 106 and the information contained within the report relating to the September 2022 Fiscal Statement

The Chairman asked if the aforementioned generated income went into the Council's Planning Budget. The Infrastructure Contributions and Spend Manager said that this was the case.

Councillor Crofton thanked the Infrastructure Contributions and Spend Manager for her informative report and referred to page 50, which showed Section 106 income and allocation data. He asked if this data showed a drag forward from 2021. The Infrastructure Contributions and Spend Manager explained that all the contributions received went into a bigger pot, and never balanced out year on year as the agreements were signed when planning permission was decided, which could be two years in advance of any payments being triggered.

Councillor Crofton asked for clarification of where the Section 106 funds had to be spent. The Infrastructure Contributions and Spend Manager said that the locality of where the money was spent had to conform with the wording of the Section 106 agreement itself and was to be used for the benefit of new residents. She explained that Hertfordshire County Council contributions not East Herts Council contributions from a Watton-at-Stone Section 106 agreement were used for Ware Library.

Councillor Huggins asked what controls were in place to ensure that money was being spent to deliver what was desired locally. The Infrastructure Contributions and Spend Manager said that this was an ongoing mission and

explained how she was reliant on her close working relationship with Planners, Town and Parish Councils, Ward Members and local organisations to identify potential contribution uses. She said that she had tried to make Section 106 as visible and accessible as possible, and the Section 106 funding webpage included an 'expression of interest' web form.

The Chairman asked for examples of works carried out to promote sustainability other than solar panels and electric vehicle charging points. The Infrastructure Contributions and Spend Manager said that bidders were asked to make projects sustainable, as payments were one off and not ongoing. She gave the example of asking that recycled materials be used for playground surfaces.

The Chairman referred to paragraph 3.1.7 of the report and asked if the indexation of payments applied to the period in between the date set out in the legal agreement and when payments were triggered. The Infrastructure Contributions and Spend Manager said that this was the case and referred the Committee to Appendix B of the report, which showed the typical Section 106 requirements including the indices used and the usual indexation calculation start dates.

The Chairman asked why in some cases the period in which the contributions had to be spent had shortened. The Infrastructure Contributions and Spend Manager said that this was dependent on negotiations with the individual developer, with some larger developers preferring a Consumer Price Indexed (CPI) spend over five years. She said that this was not a problem as projects could be targeted within this time frame and were monitored closely.

Councillor Crofton asked how affordable housing Section 106 agreements worked. The Infrastructure Contributions and Spend Manager explained that there were two options, the first was onsite provision where the developer built housing which was then taken over by a registered housing provider, i.e. a housing association. The second option, if no social housing was provided on site, would be a financial contribution in lieu of provision. This would see funds being held by the Council, and then, via close working with colleagues in the Housing and Health Department, monies spent by housing associations to build extra social housing, which the Council then allocated.

The Chairman thanked the Infrastructure Contributions and Spend Manager for her report and her work.

RESOLVED – that the Infrastructure Funding Statement 2021/2022 and Section 106 Funding Report be noted and received.

213 SHARED INTERNAL AUDIT SERVICE - PROGRESS REPORT

The Shared Internal Audit Service Manager introduced the report, which was the second progress update for 2022/2023. He referenced that to date 44% of the Internal Audit Plan days had been delivered and highlighted the outcome of four audits which had been completed since the last report to the Committee.

The Shared Internal Audit Service Manager referred to page 105 of the report which detailed one further unplanned audit which had been added to the audit plan. This audit related to the handling of noise and nuisance

complaints made to the Council. He also drew Members' attention to page 110 of the report which showed the status of critical and high priority recommendations.

The Chairman thanked the Shared Internal Audit Service Manager for his report and verbal update and asked how long the noise and nuisance audit would take. The Shared Internal Audit Service Manager said that this was dependent on the scope for each audit, in this case 10.5 days. He said that once the audit was completed a report would be circulated.

It was moved by Councillor Fernando and seconded by Councillor Crofton that the recommendations, as detailed, be approved. After being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that (A) Members note the Internal Audit Progress Report;

(B) Members approve the Internal Audit Plan changes; and

(C) Members note the status of critical and high priority recommendations.

214 PROGRESS OF THE DELIVERY OF THE 2022/23 ANTI-FRAUD PLAN

The Head of the Shared Anti-Fraud Service was unavailable to attend the meeting. The Committee was asked if they had any questions regarding the report, which would be forwarded to the Head of The Shared Anti-Fraud Service for his attention and response.

There were no questions from the Committee.

RESOLVED – that The Progress of the Delivery of the 2022/2023 Anti-Fraud Plan Report be noted and received.

215 BUDGET 2023/24 AND MEDIUM TERM FINANCIAL PLAN
2023 – 2028 PREPARATION _____

The Executive Member for Financial Sustainability introduced the report which followed on from the paper presented to the Executive last month. This set the scene for the budget and the revised Medium Term Financial Plan for 2023 to 2027 and detailed the events which impacted the Council's finances. He said that various assumptions were being made in the preparation of the budget at this stage, to include the raising of Council Tax by the allowed maximum of £5 (on a Band D property) without a referendum.

The Executive Member for Financial Sustainability said that another year of receiving the New Homes Bonus was possible as Government funding was again being rolled forward and that the Council's Transformation Project, which was key for delivering the savings required was well underway. He said that the re-phasing of the capital programme and revenue impacts of capital financing had been agreed to reduce savings requirements.

The Chairman asked what the Executive's position would be if the Government's Autumn Statement relaxed an Authority's ability to raise Council Tax by more than the current maximum of £5 as rumoured. The Executive Member for Financial Sustainability said that he was hesitant to comment as this was only a rumour, but that

there would still be caution in raising Council Tax significantly above the current maximum if this did transpire.

Councillor Huggins asked for the Executive's position regarding the rolled forward New Homes Bonus being considered as a windfall and not a continuous prop to budgets. The Executive Member for Financial Sustainability said that he would not describe the New Homes Bonus as a windfall, but that it was certainly helpful. He said that as per the report, £400,000 of potential bonus had been put aside for the refreshing of the District Plan, with £400,000 put into reserves for future funding pressures.

Councillor Crofton asked for further information regarding the delay in the Hertford Theatre Project. The Executive Member for Financial Sustainability said that the original business case did expect the Council to be receiving an income from the Theatre earlier than now expected, but as with any major project delays did occur. He said that the delay to the project was due to several factors, with tenders going back out to the market on three occasions to get a contractor on site.

Councillor Crofton said that it was disappointing that there was no information within the report relating to the Council's investment portfolio, namely a profit and loss spreadsheet for Millstream Property Investments Ltd (Millstream). The Head of Strategic Finance and Property said that as per the Council's Constitution, Millstream's Business Plan went to Council each year for approval. He said that the Audit and Governance Committee's remit was to carry out audit function, but as Millstream was a separate private company the Council had no involvement

in its audit function (bar some input into its external auditors).

The Head of Strategic Finance and Property said that 'investment property' had a particular definition within the Council's accounts, with some properties therefore not classified as such, i.e. Jackson Square Car Park - which was classed as an operational asset. He said that should the Committee require detailed information regarding every profit-making property he would have to consult with the Property Team.

Councillor Crofton said that Millstream should be accountable to the Audit and Governance Committee as it was part of East Herts Council, and that the information presented to Council was not adequate. The Head of Strategic Finance and Property said that the report which goes to Council included a Part 2 appendix. He reiterated that Millstream was a private company, of which the Council was a shareholder. He said that he would need to take advice from the Monitoring Officer to check the mechanics relating to Councillor Crofton's request and would then come back to the Committee.

Councillor Crofton referred to paragraph 1.14 of the report and asked for further clarification regarding the controls to the capital programme. The Executive Member for Financial Sustainability said that the Council had an ambitious capital programme which had tied up capital reserves. He said that borrowing was planned carefully, and that nothing else could be added to the programme. He added that re-phasing may be a possibility, but there was no need to borrow further beyond what was agreed at Council in March.

The Chairman referred to page 131 of the report which detailed that budget proposals should be based on contract inflation up to 4% and asked if this was based on an average of 4% for the life of the Medium Term Financial Plan. The Head of Strategic Finance and Property said that the 4% applied to the 2023/2024 period, with 4% for the provision of the national pay award and 4% for contract inflation. He said that as the Medium Term Financial Plan covered five years it was assumed that inflation would fall back. He said that the inflation of 9% on the refuse contract was made up of a basket of items, the largest of which were increases to private sector pay and the cost of diesel.

The Chairman referred to page 135 of the report which related to the additional funding for the waste contract and asked for clarification on where these funds were coming from. The Head of Strategic Finance and Property said that the proposed changes to the weekly food collection would save money, but that there were lots of unknowns and risks around the contract. He reassured Members however that there was flexibility available to enable tweaks to the contract should issues arise.

The Chairman referred to page 136 of the report and asked if the Council would consider offering more than the current 50% work from home scheme to employees under the Transforming East Herts Programme. The Head of Strategic Finance and Property said that to do so would enable the Council to rent out further office space, or possibly move elsewhere but this did have consequences both in terms of creativity, interaction with colleagues and staff preferences.

The Chairman referred to page 136 of the report and asked how likely it was that the significant sources of

additional income noted would be received. The Head of Strategic Finance and Property said that the increase to planning fees were highly likely. He said that New Burdens Funding will be received as per the New Burdens Agreement, but much will depend on how this funding is calculated and the attitude to garden waste fees.

The Head of Strategic Finance and Property asked if the Committee felt they would benefit from a Hertfordshire Waste Partnership representative speaking at a future meeting on waste funding models. Members agreed that this would be beneficial.

The Chairman referred to page 138 of the report and asked for further detail on the General Fund. The Head of Strategic Finance and Property said that at this stage reserves were being used to balance the budget, which were low compared to other councils. He said that borrowing was being kept back for any unforeseen events, using cheaper short-term borrowing rates as per advice from the Treasury.

The Chairman referred to page 144 of the report and asked if the £800,000 of savings required related to the current year. The Executive Member for Financial Sustainability said that that this was the case, with work done so far showing that much of these savings could be achieved from structural changes and further efficiencies, details of which will follow later in the cycle. He said that in relation to future years all areas of Council spending would need to be closely looked at.

RESOLVED – that the Budget 2023/2024 and Medium Term Financial Plan 2023 – 2028

Preparation Report and appendices be noted and received.

216 TREASURY MANAGEMENT ANNUAL REVIEW 2021/22

The Head of Strategic Finance and Property introduced the report, which looked back at the 2021/2022 financial year. He drew Members' attention to the Executive Summary on page 173 - Appendix A, which showed the effects of major project delay on capital expenditure and detailed the Council's needs and position with regards to borrowing.

The Head of Strategic Finance and Property said the Council was repaying a loan from the 1980s with the Public Loan Works Board (PWLB) , which had an interest rate based on gilt yields and not the Bank of England base rate. He explained that short term borrowing was currently a cheaper option as again it was not linked to the base rate but instead Sterling Overnight Index Average (SONIA) .

The Head of Strategic Finance and Property referred to page 187 of the report which detailed the Council's investments with Lothbury Property Trust and Hermes Property Trust. He said that both trusts had waiting lists to invest and were ahead of the curve with regards to property trends. He said that the trusts published their returns to their websites, and the links for these could be sent to the Chairman.

The Chairman thanked the Head of Strategic Finance for the interesting document.

It was moved by Councillor Fernando and seconded by Councillor Huggins that the recommendations, as detailed,

be approved. After being put the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that Members examine and comment on the Treasury Management Activity and Prudential Indicators for 2021/2022 (Appendix A).

217 MONITORING OF 2022/23 QUARTER 2 CORPORATE RISK REGISTER

The Head of Strategic Finance and Property introduced the report which covered Quarter Two of 2022/2023. He said that the usual report officer had now left the Council and so this responsibility had now passed to an Officer from the Communications, Strategy and Policy Team.

The Head of Strategic Finance and Property drew Members' attention to page 196 of the report which gave a summary of the updates to risks.

Councillor Fernando said that he noted that the register still had the resilience of IT scored as an A3 risk. He said that as per the recent Council IT outage, it was likely that despite ongoing works this may reoccur more than annually. He said he was therefore concerned that the risk may be being underemphasized. The Chairman said that conversations regarding the upgrade of this risk had been had at previous meetings of the Committee and he shared Councillor Fernando's concerns. The Head of Strategic Finance and Property said that he would feed the Committee's comments regarding this risk back to the Deputy Chief Executive.

The Chairman asked if the Risk Matrix should have been included in the report. The Head of Strategic Finance and Property said that it should, but that the matrix could be viewed on line via the Pentana portal.

The Head of Strategic Finance and Property said that lots of the Council's IT systems currently sat in isolation from the website. He said that this was advantageous as it made them difficult to attack, but that planned digital enhancements would raise risks.

Councillor Crofton asked if the Council was able to find a different IT partner. The Executive Member for Financial Stability said that change was needed, but that care was needed to ensure that any change was not disadvantageous. He said that a new Joint Information and Technology Committee had been formed, comprising of three members each from East Herts Council and Stevenage Council plus Senior Officers. He said that it was however, reasonable for the Council to scope out alternative options.

The Chairman asked Members if they were in agreement that the risk score given to IT should be moved from A3 to A4. After discussion Members agreed that the IT risk should be moved from A3 to A4 in the Risk Register.

The Chairman referred to paragraph 3.1 of the report and asked for clarification of the risk tolerance levels set by the Leadership Team. The Head of Strategic Finance and Property explained that risks above the tolerance level were actively managed, he reminded the Committee that IT was already in this 'hot zone' with its current risk score of A3.

Councillor Fernando referred to page 207 of the report and said that the risk register triggers relating to the performance of IT systems needed to be expanded. He said that the Council's recent IT outage would not have been seen as a trigger in the current summary of corporate risks. Members agreed that the Deputy Chief Executive should review the risks, triggers, consequences and mitigation/controls relating to the performance of the Council's IT systems.

Members discussed their concerns and the issues surrounding the other risks as detailed in the summary of corporate risks. The Head of Strategic Finance and Property gave explanation for the scoring of these risks and their mitigation/controls. Members agreed that no further action was required in relation to these risks at this time.

It was moved by Councillor Fernando and seconded by Councillor Bell that the recommendations, as detailed in the report and appendix, be approved with the following additions;

- that the risk score for the performance, resilience and security of IT systems be upgraded from A3 to A4 in the Corporate Risk Register
- that the Deputy Chief review the risks, triggers, consequences and mitigation/controls relating to the performance of the Council's IT systems.

After being put to the meeting, and a vote taken, the motion was declared CARRIED.

RESOLVED – that the 2022/2023 Quarter Two Corporate Risk register be reviewed, and that

the score for the performance, resilience and security of the Council's IT systems be upgraded from A3 to A4 in the Corporate Risk Register, and that the Deputy Chief Executive review the risks, triggers, consequences and mitigation/controls relating to the performance of the Council's IT systems.

218 TEMPLATE TO CALCULATE FULL COST RECOVERY UNDER THE FEES AND CHARGES POLICY

The Head of Strategic Finance and Property introduced the report. He said that the template was required under the Fees and Charges Policy, which would be presented to the Executive in December following scrutiny by the Committee.

The Head of Strategic Finance and Property explained to the Committee the methodology and calculation on which the template was based.

The Chairman referred to the table on page 5 of the report and asked if there should be an asterisk after the words 'Non-chargeable time'. The Head of Strategic Finance and Property said that this was correct, and there should also be an asterisk in paragraph 1.7.

The Chairman asked if the system would be able to calculate the charge for a garden waste bin on a pro rata basis (i.e, should a resident move into a property part way through a year). The Head of Strategic Finance and Property said that the charge for the garden waste bin was reasonable, and that the charges to amend a direct debit with the waste contractor were expensive and so this was not viable.

The Head of Strategic Finance and Property drew Members' attention to Appendix B of the report which gave an example of the Residents Parking Zone completed charges template.

It was moved by Councillor Fernando and seconded by Councillor Crofton that the recommendations, as detailed, be approved. After being put the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that Members endorse the Template to Calculate Full Cost Recovery under the Fees and Charges Policy.

219 AUDIT & GOVERNANCE COMMITTEE WORK PROGRAMME

The Head of Strategic Finance and Property introduced the report. He advised that a Sub-Committee meeting had provisionally pencilled into the work programme for December 2022, should the Auditor's accounts be available.

Councillor Fernando questioned if the Cyber Training which was arranged for the March 2023 meeting of the Committee was timely, as such training would need to be repeated for Members post the May 2023 elections. The Head of Strategic Finance and Property said that Cyber Training had been requested by the Committee for some time, in particular assurance around the cyber control framework. The Chairman and the Shared Internal Audit Service Manager agreed that Cyber Training was appropriate for the Committee as planned.

The Head of Strategic Finance and Property said that the January 2023 meeting was programmed with the Statement of Accounts training. He said that the May 2023 meeting was programmed with 'The Role of the Audit and Governance Committee' training. The Chairman said this was agreeable.

The Head of Strategic Finance and Property explained how 2023/2024 would see the Committee reduce from five meetings to four meetings per year.

Councillor Crofton said that the analysis of Millstream Property Investments Ltd, to include the profit and loss account should be added to the work programme. The Head of Strategic Finance and Property said that he and the Democratic Services Officer would discuss the scope for this request with the Monitoring Officer and communicate back to the Committee before the next meeting.

It was moved by Councillor Fernando and seconded by Councillor Crofton that the recommendations, as detailed, be approved. After being put the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that; (A) Members approve the work programme as set out in the report; and

(B) Specify any training requirements.

220 URGENT ITEMS

There were no urgent items.

The meeting closed at 9.32 pm

Chairman

Date