

Cheltenham Borough Council

Audit, Compliance and Governance

Committee

Minutes

Meeting date: 31 January 2024

Meeting time: 6.00 pm - 7.30 pm

In attendance:

Councillors:

Adrian Bamford (Chair), David Willingham (Vice-Chair), Matt Babbage, Graham Beale, Tabi Joy and Paul McCloskey

Also in attendance:

Jaina Mistry (Principal Auditor) and Paul Jones (Executive Director of Finance, Assets and Regeneration), Peter Barber (Grant Thornton)

1 Apologies

There were none.

2 Declarations of interest

Councillor McCloskey put on record his position as a non-executive director of Publica, in view of Publica being listed as a significant risk in the Risk Register (Agenda item 6).

3 Minutes of the last meeting

The Chair highlighted several minor typographical errors. The minutes were otherwise approved as a true record, and signed accordingly.

4 Public and Member Questions

Two Member questions were received. The written responses were taken as read:

1. Question from Councillor David Willingham to the Chair, Councillor Adrian Bamford

Could the Chair please advise in the calendar year 2023, how many planning applications were processed by the borough council where due to viability issues, less affordable housing than required by JCS policy SD12, was provided?

Response:

Policy SD12 of the Joint Core Strategy requires developers to provide 40% affordable housing on sites where 11 homes or more are proposed. In Cheltenham the number of applications received each year seeking consent for 11 or more homes is very low and therefore the number of affordable housing applicable schemes is also very low.

In the calendar year 2023, the council determined one affordable housing applicable planning application; that application (at Elms Park, Tewkesbury Road) provides for a policy compliant level of affordable housing. No applications were granted in 2023 with a sub-policy affordable housing offer.

These numbers relate to the number of applications processed (i.e. determined) in 2023 (as requested) not the number of planning applications currently in the system. There are a number of live applications currently being scrutinised by the Planning team where viability issues in respect of affordable housing provision is being argued; these negotiations are yet to be concluded in many case

2. Question from Councillor David Willingham to the Chair, Councillor Adrian Bamford

Could the Chair please advise for the same period how many of those planning applications detailed above had the viability assessment published on Public Access for consultation before the application was determined, as required by JCS policy SD12?

Response:

As no applications were determined in 2023 with a sub-policy affordable housing offer, no viability appraisals have been submitted or therefore published on the council's website during that period.

Councillor Willingham said he still had concerns about this, which he would raise when discussing the internal audit progress report and/or work programme later in the meeting, with the request that internal audit look into the matter.

5 Progress Report and Sector Update

Peter Barber of Grant Thornton introduced himself as the appointed auditor for 2022-23, having taken over from Alex Walling, the appointed auditor for 2021-22. He highlighted the following points:

- having undertaken supplementary work on group accounts, including the airport, and further work around property, plant and equipment and council dwellings evaluations, CBC's 2021-22 financial statements were given a 'clean' unqualified opinion on 03 October and signed off by the external auditors;
- public sector auditors have a secondary responsibility to issue a value for money (VFM) conclusion on the council's arrangements, looking at three areas defined by the National Audit Officer;
 - financial sustainability – balancing budgets in medium term, delivering to budget, budget monitoring;
 - governance – the committee and internal audit play a vital role in ensuring the council's decisions are based on complete, timely and accurate information;
 - economy, efficiency and effectiveness – ensuring that CBC is delivering services in the most effective way;
- Grant Thornton and CBC officers have agreed that the VFM work for both 2021-22 and 2022-23 will be combined in a single report; this is progressing well; the draft report should be ready by week commencing 12 February, with the final version brought to the next meeting, completing the VFM responsibility for both years;
- this just leaves the 2022-23 financial statements, and as Members are aware, wide sector challenges have resulted in significant backlogs throughout the country. The government has explored a number of solutions and, subject to final confirmation, has indicated that all audits not complete by the end of September a backstop will be set for 2022-23 and prior years;
- Grant Thornton and CBC's finance team agree that, due to a number of challenges and pressures, the 2022-23 audit cannot be completed by the end of September, and that, subject to final confirmation about the actual backstop date, CBC's 2022-23 statement of accounts (issued by CBC on 31 May 2023) will be signed off by Grant Thornton with a disclaimer, the nature of which will depend on how far work has progressed at that time;
- this will allow the new auditors, Bishop Flemming, to make an early start on the 2023-24 accounts, recognising that further audit work to confirm the opening balances will be required – 2023-24 accounts to be complete by the end of May, with the auditors' accounts signed off by the end of September.

In response to Members' questions, PB confirmed that:

- Grant Thornton will conclude the VFM work on the 2022-23 accounts in the next few weeks, to share with Members at the next meeting;
- regarding audit fees and coverage if the accounts are disclaimed, Grant Thornton has made limited progress on the 2022-23 audit so far, and discussions are underway on behalf of CBC and other councils to determine what ramifications the disclaimer has on its fee. A lot of audit time and officer time has already been incurred, and a judgement will need to be made as to whether further work is undertaken, knowing that the audit will not be completed;

- if there are only one or two areas outstanding, a limitation of scope can be issued, stating that the accounts present the council's position fairly with the exception of xyz. If there are too many exceptions, however, and sufficient assurance can't be given, a qualified opinion must be issued, which rolls through and affects future years' audit work;
- regarding the timeframe for the 2023-24 accounts and the new auditors, the financial year ends on 31 March, the council will have two months to produce its accounts, and the new auditors will have four months to audit them. This is a tight timeline, and some councils are unlikely to achieve it, but there is a drive to reset and get back to timely audits;
- if Grant Thornton issues a complete disclaimer on the 2022-23 accounts as there is too much outstanding, the new auditors will have to carry out some additional audit procedures to get assurances on the 2023-24 opening balances;
- it is important to be aware of the reasons for the backstop proposal: auditing teams are required to carry out multiple times more work than ten years ago with fewer auditors, and the demands on council finance teams, where resources are already limited, have increased significantly. These challenges with capacity on both sides have resulted in the delays, and the backstop provides the opportunity to re-set;
- Members can be reassured that the 2021-22 audit was positive, with not many material errors and no indication of inappropriate accounting, unlike the many councils which are facing problems.

The Director of Finance and Assets continued to explain that the backstop is a pragmatic solution to get local authority accounts back on an even keel across the board, and Members should take comfort that CBC only needs to backstop one year rather than several. He made the following points:

- CBC is an ambitious council and not easy to audit; our accounts are not standard and come with a multitude of complications: it includes several entities (airport, CBH, Publica and Ubico) which all need to produce accounts, and over £0.5billion-worth of assets, including the Pump Room and Town Hall which need revaluating despite the fact that the council will keep them in perpetuity; as a member of the Gloucestershire Local Government Pension Scheme, regular revaluation reports are needed and have to be audited; and the council's 5,000 homes require regular valuation;
- the new auditors, Bishop Flemming, are keen to get started on the huge agenda, including the Golden Valley development and the return of CBH. Grant Thornton as a firm will need to concentrate on the NHS for three months, and will not have resource available for local authorities, and could attempt to audit two sets of accounts at the same time, put in an enormous amount of work, then not manage to conclude one element and have to issue a disclaimer. A backstop is the right decision.

In response to further Member questions, PB said that:

- lack of audit resource is not the only factor causing the backlog of work. There are very high demands on finance officers across many councils, with both audit firms and councils trying to recruit from a limited pool of resource;
- the backstop is an amnesty, but there is clearly a need to step up on all sides, recognise the need to get back to timely reporting and the ramifications of

missing deadlines. In the past, there have been no real consequences if a council doesn't produce its accounts by the end of May or if auditors don't sign them off in a timely manner, but councils and auditors are now being encouraged to question why and exert more pressure to ensure work is delivered to the earlier timetables.

The Director of Finance and Assets added that part of the reason for today's recommendation for a backstop is a response to the plans to sell the airport and bring CBH back in house - these two decisions will simplify CBC's accounts, and with the addition of CBH's finance team to ours, this is a great opportunity to re-set and ensure that we are not in the same position in the future.

The Chair commented that it was disappointing to note in the CIPFA report that public sector sustainability reporting frameworks are inconsistent and confusing, and worrying therefore that there is no proper financial understanding of the consequences of climate change and other biodiversity issues when decisions are being made. A Member agreed, noting that the SWAP audit summaries refer to the need to consider climate change as a disruptive force which will increasingly be a part of how we consider risk management. She wondered if the CIPFA findings could be considered for the work programme, with some sort of mitigating strategy that can be implemented in a straightforward way.

6 Corporate Risk Register

The Executive Director for Finance and Assets introduced the item on behalf of the Head of Performance, Projects and Risk, saying acronyms had been removed, as requested, and giving further information about the council's two highest risks:

- the MX development is near conclusion but the developer is still experiencing workforce shortages which could potentially disrupt the completion of the groundwork, in turn causing budgetary pressures as a result of the requirement to keep both resources and welfare facilities on site until completion;
- at the moment, the council is meeting the developers frequently, recalculating the programme, and retaining a level of focus and scrutiny on the risk. An update will potentially be taken to March Council, with details of the expected completion and opening dates;
- regarding Publica, its IT and the security of its systems is essential to business operations, and there are concerns about the stability of the service and whether Publica has the ability to recruit and retain the specific skills required. Publica has reacted to this risk, appointed an interim MD and Programme Director, and assurance has been provided by its IT contact. This risk will probably be reviewed and hopefully reduced in February, but the need to focus on this essential service is highlighted for the committee.

A Member asked that the grid presenting various levels of impact and probability be reinstated in the report in future as it is useful for reference, showing whether the risk is higher or lower than reported at the previous meeting. The Executive Director for Finance and Assets confirmed that Level 5 represents a high risk, with a

probability greater than 90%; risk scoring tries to quantify the probability of something happening without intervention, and identify where it is critical that the council puts mitigation and control measures in place to bring the scores down. The Chair felt this would be helpful, and that the committee considers the higher risks at each meeting and receives assurance that these measures are in place – in particular for the MX project. He also noted that several review dates had passed.

The Executive Director for Finance and Assets agreed that MX is the council's biggest risk, and confirmed that the project steering group scrutinises its progress at every stage.

A Member raised the issue of the developing business continuity and corporate recovery plans, and suggested that a rigorous test exercise should be added to the plan to make sure everything works effectively in a role-playing scenario. The Executive Director for Finance and Assets confirmed that a number of council officers undertake training in this area, which involves practical scenario testing, including sessions at Gloucestershire Airport and Waterwells. A lot of lessons are learnt from these exercises. The Member suggested that this training should be included in the risk register, as it reduces and mitigates risks.

The Chair suggested that, while the table is useful, officers can't be expected to respond fully on every item at every meeting; going forward, the committee could have the opportunity to raise concerns and request a more detailed report on specific items.

A Member commented on the recent order from the Secretary of State for Levelling Up, Housing and Communities that councils produce productivity plans as extra funding is unveiled, to ensure the best use of tax payers' money. He asked how CBC measures the effectiveness of non-financial matters such as its equality, diversity and inclusion (EDI) work, and whether, under 'governance', the committee should be considering what is being achieved.

The Chair agreed, though felt that the requirement for productivity plans were often used as an excuse for councils receiving less money from government. He said he would follow this up with the Head of Corporate Services.

A Member said that Overview and Scrutiny Committee had been looking at the DEI policy and was making tangible progress; it could be useful to contextualise CBC's development in that area in a wider national context. She also felt it would be useful to explore emergency drill case studies undertaken by other councils – the Chair agreed and suggested selecting two or three areas to consider at the next meeting.

There was no vote on this item.

7 Internal Audit Progress Report

The Principal Auditor confirmed that since the last meeting, six audits had been finalised – four with substantial and two with reasonable assurances.

Members raised the following issues:

- implementation of the planning enforcement agreed action has been put back several times since 2021; if there is no progress by May 2024, the senior officer or director should be invited to a meeting to explain what is happening with the service. Planning enforcement vexes constituents across the town, has an impact and carries risk when it isn't working – a discussion about progress would be useful. There are a number of other out-of-date enforcement items which should be addressed;
- the Executive Director for Finance and Assets confirmed that internal audit must be taken seriously, and that the internal corporate governance group meets regularly to go through the actions, making it clear to officers that if the recommendations are not implemented, officers could be called to attend an audit, compliance and governance meeting to explain why the timescale has slipped without resolution;
- it would be useful to know the key performance indicators (KPIs) for planning to understand what is being measured and to inform any discussion of backlogs and resourcing; if they aren't working, it should be reported to this committee, even though Planning Committee has discussed enforcement on a number of occasions and is aware of the distinct lack of resources. It would be helpful to invite the newly-appointed Head of Planning to a future meeting;
- it is good to note that all the items on the Priority 1 list have been cleared.

No vote was required for this item.

8 Work Programme

The Chair noted that, in view of this evening's light agenda, there would be a lot to consider at the April meeting, and suggested an extraordinary committee before then to consider the VFM report and 2022-23 statement of accounts. It was agreed that this should be scheduled for the second half of March.

A Member, following up on Agenda Item 4, asked that internal audit look into the matter of JCS Policy SD12 and affordable housing. He said developers are not complying with this policy which requires a certain level of affordable housing for all development over a certain size, unless the development is not viable. Viability assessments should be available to the public but there are several recent cases where they have not been, depriving the public of the opportunity to properly scrutinise the figures. It was the view of this Member that developers don't want the figures published as they show how much profit they are making. The question arises as to whether the council is following its own policy guidance correctly and if not, what can be done to change this. This falls within the remit of this committee, and it is important to get it right.

The Chair agreed that it would be useful to ask planners to do a report with specific examples, and ask for an internal audit to ensure that these policies are being complied with.

9 Any other item the chairman determines to be urgent and requires a decision

There was none.

10 Date of next meeting

The next meeting is scheduled for 17 April 2024.