

HARBOROUGH DISTRICT COUNCIL

MINUTES OF THE MEETING OF THE SCRUTINY PANEL – RESOURCE DEVELOPMENT

held in the Council Chamber,
Adam and Eve Street, Market Harborough

7th April 2011

commencing at 6.30p.m.

Present:
Councillor Pain (Chairman)

Councillors: Evans, Hart, Johnson, Knowles, Mrs. Page and B. Smith.

Officers: K. Mehta, E. O'Neill, S. Pointer and V. Wenham.

An apology for absence was received from Councillor Fuchs.

658 MINUTES

The Panel noted that an email had been sent to Members for information on who was involved with the Bowden's Trust (requested via Minute 500). The Panel requested that the Deputy Chief Executive check this information again and provide confirmation to Members.

RESOLVED: that the Minutes of the Meeting of the Scrutiny Panel – Resource Development held on 10th March 2011 be taken as read and signed by the Chairman as a true record.

659 DECLARATIONS OF MEMBERS' INTERESTS

None were received.

660 COSTS AWARDED AGAINST THE COUNCIL

Members had previously requested that a report be submitted detailing the instances of when there have been third-party awards of costs made against the Council. Members considered the scope of this piece of work for inclusion in the Scrutiny Work-plan 2011/12 Work-plan.

The Panel NOTED that this proposal a large piece of work that would involve detailed consultation with many of the Council's departments.

The Panel RECOMMENDED that:

- (i) the following areas of Council activity be included in the report: Planning (Development Control), Planning Enforcement, Environmental Health Services, Civil Enforcement, Licensing, Council Tax and Benefits.
- (ii) given the size of this piece of work, the report should be divided into two sections for presentation at two meetings of this committee. The first report should include Civil Enforcement, Licensing, Council Tax and Benefits. The second report should include Planning (Development Control), Planning Enforcement and Environmental Health Services.
- (iii) the nature of the award of each cost should be included in these reports. This should include the source of the decision that precipitated the award (was it, for example, a committee decision or an Officer decision that was overturned?).
- (iv) the reports should include dates of when the awards were made.
- (v) the reports should include details of when the Council has been successful in obtaining an award of cost.
- (vi) costs awarded during the four-year life-span of the previous Council term should be included in the reports. Awards of larger sums should be investigated over the life-span of at least two Councils.

- (vii) A de minimis level be set for awards of costs to avoid scrutiny of paltry sums of money.

661 SECTION 106 DEBTS

S. Pointer, Planning Policy and Economic Development Manager, provided an update on the status of Section 106 monies owed to the Council (details at Appendix A).

Section 106 Agreements are negotiated with applicants for planning permissions in order to make development acceptable in planning terms. Most agreements which the District Council enters into concern funding towards local community uses and affordable housing (if not provided on site) which become obligations when the development reaches a certain completion threshold. When this is reached, invoices are sent out and payments made.

Since 2008, and the onset of the recession, a number of development companies have experienced financial difficulties and not been able to fulfil payments. A report was made to the Panel meeting in July 2010 as part of a wider report on corporate debt management concerning outstanding payments and this report updated the Panel on the latest position.

The Panel NOTED that:

- (i) the Council used to operate a Section 106 Committee which involved Ward Members. The Panel felt that the possibility of resurrecting this committee should be investigated. S. Pointer, Planning Policy and Economic Development Manager, agreed to do this.
- (ii) in recent years bonding was introduced as a means of securing Section 106 payments. The Panel asked if it could be provided with the exact date that this instruction was given to staff and confirmation that all applications that should have been bonded have been. S. Pointer, Planning Policy and Economic Development Manager, agreed to do this.

The Panel RECOMMENDED that:

- (i) payments are often made in stages or are staggered and use 'trigger-points'. The Council should, as its first preference, seek up-front payment of monies rather than agree to delays.
- (ii) when legal counsel is required to enter into a Section 106 agreement this should be sought as soon as possible to avoid delays.

662 COMMUNITY INFRASTRUCTURE LEVY

S. Pointer, Planning Policy and Economic Development Manager, provided, for information, a document outlining the provisions of the Community Infrastructure Levy (CIL) proposed by central government.

The problems involving recovery of S106 obligations (particularly when companies go into receivership during a development) could well be avoided if the Council decides to adopt a new approach to securing community infrastructure. CIL was brought into being via Regulations in Spring 2010 but authorities were waiting to see what approach the Government would take to this initiative.

In recent months, the Coalition Government has indicated that it supports this CIL approach to funding infrastructure from multiple developments and consequently the scope of Section 106 agreements will be scaled back. Unlike S106, CIL is an automatic levy on development and is based on every new property, or a minimum floorspace, is paid at commencement and is enforceable with unlimited fines.

The Panel NOTED that:

- (i) affordable housing and charitable schemes would be exempt from CIL contributions.
- (ii) the Section 106 function will continue to be used up to 1st April 2014.
- (iii) it would be useful for Members to have sight of both the Section 106 and CIL Regulations. S. Pointer, Planning Policy and Economic Development Manager, agreed to email relevant links to Members of the Panel.

The Panel RECOMMENDED that:

- (i) the Council implement the CIL function as soon as possible.
- (ii) a Task Panel be created to deal with the implementation of the CIL. This Task Panel should provide updates, through Scrutiny, at appropriate stages.
- (iii) a scheme of CIL charges be created and reviewed as appropriate. This scheme should include a list of desired infrastructure. Room for inflationary increases should be allowed for in this scheme of charges.
- (iv) all Members, including Parish Members, should have some input into the implementation of the CIL scheme.

663 MATTERS OF URGENCY

The Panel expressed its hope that an independent Chairman of the Governance and Audit Committee would be in post before the commencement of the 2011/12 municipal year.

The Meeting ended at 8.20p.m.

Date Invoice Raised	Development	Invoice amount	Payments	Total Outstanding
13/12/10	Former Harborough Rubber Site Market Harborough St Mary's Developments 04/01573/OUT	£67,367.00	£0.00	£67,367.00
22/03/11 Now beyond terms of invoice and no response from owner. Re-Contact owner to determine current position.				

Date Invoice Raised	Development	Invoice amount	Payments	Total Outstanding
26/11/10	Warwick Road, Kibworth Harcourt DWH 04/00319/OUT	£11,220.00	£0.00	£11,220.00
22/03/11: Now beyond terms of invoice. DWH contacted regarding outstanding amount and copy invoice to be re-issued as they have no record of receiving it.				

Date Invoice Raised	Development	Invoice amount	Payments	Total Outstanding
22/04/10	Land off Station Lane, Scraptoft Five Oak Homes 06/01615/FUL	£16,875.00	£1,687.50 recvd 05/05/10 £1,687.50 recvd 25/05/10 £1,687.50 recvd 28/05/10 £1,687.50 recvd 11/07/10 £1,687.50 recvd 04/10/10 £1,687.50 recvd 02/11/10	£6,750.00

23/04/10 Payment plan agreed.

22/03/11 Maintaining agreed payment plan (four units left to sell)

Date Invoice Raised	Development	Invoice amount	Payments	Total Outstanding
17/12/09	Former Badger Bros Garage Site, Lubenham Chase Homes Ltd 04/01377/REM	£74,214.00		£74,214.00
22/03/11 Council Solicitor is awaiting Counsel opinion on PBS position and discussing with Freeth Cartwright.				

Date Invoice Raised	Development	Invoice amount	Payments	Total Outstanding
20/01/09	Former Symingtons Factory, MH Attridge Developments 03/01897/FUL	£356,875.00	£96,845.28 recvd 08//06/10	£ 260,029.72
22/03/11: Awaiting legal view of issues - Council Solicitor pursuing				

Date Invoice Raised	Development	Invoice amount	Payments	Total Outstanding
18/02/08	Former Symingtons Factory, Market Harborough Attridge Developments 03/01897/FUL	£86,024.49	£6,617.27 recvd 19/09/08 £6,617.27 recvd 14/11/08 £6,617.27 recvd 08/12/08 £17,954.72 recvd 08/06/10	£48,217.96
22/03/11: Awaiting legal view of issues - Council Solicitor pursuing.				

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Date Invoice Raised	Development	Invoice amount	Payments	Total Outstanding
12/05/08	52 – 54 St Mary's Road, Market Harborough Oakwood Homes (Midlands) Ltd 05/00381/FUL	£62,222.23	£0.00	£62,222.23
<p>22/03/11: Oakwood Homes (Midlands) Ltd has entered into voluntary liquidation. The Directors Estimated Statement of Affairs highlights that it is unlikely there will be any funds available for preferential and unsecured creditors. Liaising with Revenue and Benefits; awaiting response from CBA</p>				

Date Invoice Raised	Development	Invoice amount	Payments	Total Outstanding
11/02/08	Hunters Close, Husbands Bosworth Barry Howard Homes 05/01876/FUL	£147,613.68	£0.00	£147,613.68
<p>22/03/11: Barry Howard Homes entered into a Company Voluntary Arrangement during 2008. HDC registered as creditor prior to adjudication but BHH are now in default of this CVA. Ensure HDC is registered as a creditor prior to further Administration.</p>				

Date Invoice Raised	Development	Invoice amount	Payments	Total Outstanding
21/11/07	4 Fleckney Road, Kibworth Beauchamp A1 Alpha properties 04/01211/FUL	£102,282.88	£10,000.00 07/03/2008	£92,282.88
<p>22/03/11: Due to lack of funds and assets of limited company it is not currently worthwhile pursuing any legal action as there would be a cost implication to the Council with no prospect at the current time of securing any funds.</p>				