

Medway Council
Meeting of Regeneration, Culture and Environment
Overview and Scrutiny Committee

Thursday, 11 August 2022

6.30pm to 11.22pm

Record of the meeting

Subject to approval as an accurate record at the next meeting of this committee

Present: Councillors: Etheridge (Chairman), Fearn (Vice-Chairman), Browne, Carr, Curry, Edwards, Hubbard, Lammas, Andy Stamp, Tranter, Rupert Turpin and Williams

Substitutes: Councillors:
Mrs Elizabeth Turpin (Substitute for Clarke)

In Attendance: Alex Constantinides, Strategic Lead, Front Line Services
Janet Davies, Head of HIF and Regeneration
Ruth Du-Lieu, Assistant Director, Front Line Services
Sunny Ee, Assistant Director Regeneration
Matthew Fox, Lawyer, Pinsent Mason
Bhupinder Gill, Assistant Director, Legal and Governance
Ian Gilmore, Head of Regulatory and Environmental Services
Jade Hannah, Democratic Services Officer
Mr Hamandishe, Lead Petitioner
Dave Harris, Head of Planning
Richard Hicks, Director of Place and Deputy Chief Executive
Lucy Kirk, Climate Response and Environmental Protection Manager
Dee O'Rourke, Assistant Director, Culture and Community
Catherine Smith, Planning Manager, Policy
Stuart Steed, Environmental Protection Officer
Mr Valente, Lead Petitioner
Phil Watts, Chief Operating Officer

159 Apologies for absence

An apology for absence was received from Councillor Clarke.

160 Record of Meeting

The record of the Meeting held on 9 June 2022 was agreed as correct and signed by the Chairman.

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A request was made to thank Southern Water for a useful site visit which had taken place since the last meeting [minute no.46 9 June 2022].

161 Urgent matters by reason of special circumstances

There were none.

162 Disclosable Pecuniary Interests or Other Significant Interests and Whipping

Disclosable pecuniary interests

There were none.

Other significant interests (OSIs)

There were none.

Other interests

There were none.

163 Chairman's Announcements

The Chairman announced a change to the agenda order. Agenda items were considered in the following order:

5. Petitions
7. Four Elms Hill Air Quality Action Plan
8. Shared Prosperity Fund Investment Plan Submission
6. Call-in – Future Hoo Progress Report
9. Work Programme

164 Petitions

Discussion:

Members considered a report which advised the Committee of petitions received by the Council which fell within the remit of the Committee, including a summary of the responses sent to the petition organisers by officers.

Two petitions had been referred to the Committee for consideration. The first petition referral related to the condition of the access road at the rear of Granville Road, Gillingham. It was requested that the Council make long-lasting repairs to the surface of this road and improve the drainage to prevent flooding.

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The lead petitioner was invited to speak to explain why the Council's response to the petition had been referred to the Committee and made the following points:

- Circa 20/30 years ago, residents paid an annual maintenance fee to the Council. This arrangement had since terminated, and the area had fallen into disrepair. There were now concerns over accessibility, safety, and incidences of anti-social behaviour.
- An independent engineer's report had been commissioned by the lead petitioner which costed the works to flatten the track and improve drainage at circa £50-60,000.

The petitioner was pleased to report that the Council had agreed to a course of action since the report had been published. The Strategic Lead Front Line Services subsequently confirmed that in addition to carrying out option 4 (raise the footpath) as set out at paragraph 5.2.4 in the report, capacity within existing budgets would be utilised to carry out option 2 (regrade the track and fill/surface with compacted stone) this financial year. The Strategic Lead, Front Line Services undertook to meet with the lead petitioner to co-design the resolution.

In discussing the petition, the following responses were made to comments from Members:

- **Involvement of Ward Councillors** – recognising the variety of opinions among residents over action to be taken in this area, it was requested that ward councillors be involved along with the lead petitioner to discuss the design of the resolution.
- **Criteria for remedial works on unadopted highway** – it was explained to the Committee that remedial works on unadopted highways were considered on a case-by-case basis. To provide more clarity, a briefing note was requested setting out the criteria which needed to be met.

The second petition referral concerned trees on Gillingham Green at the rear of Layfield Road. It was requested that the Council carry out urgent maintenance on the trees, reduce them in height and remove overhanging branches.

The lead petitioner was invited to speak to explain why the Council's response to the petition had been referred to the Committee and made the following points:

- Whilst the environmental and health and wellbeing benefits of the trees were acknowledged, it was explained that as the trees were overgrown, there were concerns over safety. Owing, also, to a reduction in natural surveillance, concerns had been expressed around incidences of anti-social behaviour and fly-tipping in the alleyway.
- The trees blocked out light and caused issues in the summer months with pollen. Residents could not open their windows or put washing out.
- Concern was expressed around the lack of regular tree maintenance and inconsistency of tree maintenance within the area.

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In response, the Head of Regulatory and Environmental Services explained to the Committee that concerns needed to be balanced with the considerable benefits that the trees brought to the community and the environment. The trees had been assessed by a specialist who concluded that a significant reduction in their size would be detrimental to the trees long-term health and would not significantly increase light in adjacent gardens. However, an application would be made to seek permission to lift the lower branches and clear regrowth at the base. Permission was required as the trees grew within a conservation area. This would be undertaken in conjunction with residents.

In discussing the petition, the concerns of the lead petitioner were echoed, and reassurance was sought that routine maintenance would be carried out on the trees. Clarity was also sought on the height of proposed branch removal.

In response, the Committee was advised that maintenance of these trees would be added to the greenspaces programme. With regards to specifics around the level of branch and regrowth removal, a specialist would be appointed and to the extent feasible and within any permission granted, the wishes of residents would be accommodated.

The lead petitioner confirmed that this action was satisfactory, but he requested timely action.

Decision:

The Committee:

- a) noted the petition responses and appropriate officer action in paragraphs 3 and 4 of the report,
- b) noted the petition referral requests in paragraph 5 and the Director of Place and Deputy Chief Executive's responses, and
- c) requested two briefing notes:
 - criteria for remedial works on unadopted highway
 - criteria for tree maintenance.

165 Call-In - Future Hoo Progress Report

Discussion:

Members considered a report regarding a call-in received from eight Members of the Council regarding the Cabinet decisions taken on 26 July 2022 on the Future Hoo Progress Report.

Councillor Mrs Turpin, as the lead call-in Member, explained the reasons for the call-in, as set out in paragraph 2.12 of the report to the Committee. She noted that

- at the Cabinet meeting on 26 July, several changes had been made to the Medway Infrastructure Delivery Plan (Appendix 5 to the Cabinet

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report), however, she did not believe the revised figure agreed at the meeting was correct.

- all the additional rail infrastructure funding had been removed, queried therefore how a functioning railway station could be delivered. Removing the highways funding lines did not mean that these projects were no longer required
- the sports centre delivery was in question,
- health and social care funding estimates had been removed, but the point was made that these were still needed to give an indication of what could actually be delivered.
- the purpose of the HIF was to have the infrastructure in place before housing was built. The funding was now uncertain, given the significant reliance on S106 contributions and the fact that in many areas funding sources were still to be determined. Without more certainty around funding it seemed unwise at this point to go out to consultation.

Other Members who had called in the decisions made the following points:

- It was unclear whether the HIF project was on track financially
- Whilst the proposed projects in the Infrastructure Delivery Plan (IDP) were welcomed, whether they could be funded was a significant concern
- The validity of the documents agreed by Cabinet was questioned
- There were concerns about the removal of the budgetary pressure for passenger subsidies, given the need to identify funding for the railway station
- The removal of the funding set aside for the Hoo Peninsula Road additional costs, including contingency, was a concern given high inflation and the impact on construction costs
- There was a need for certainty as to whether projects could still be delivered given the changes made by Cabinet to Appendix 5
- There had been insufficient engagement with local Members
- There was too much reliance on S106 contributions and greater clarity was needed, particularly as elements of this were higher risk and the amounts being sought were higher than usual
- Cabinet had set aside feasibility funding in 2018 to allow detailed consideration of a possible sports centre, but no work seems to have taken place, even though the present sports centre was not adequate.

The Director of Place and Deputy Chief Executive apologised to Members for the issues with Appendix 5 of the Cabinet Report in particular, acknowledging that whilst these were complex matters, the information should have been made clearer. Responding to the points raised by members of the Committee;

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- that Cabinet Members had not had enough time to read the amended papers after the adjournment, he noted the changes to Appendix 5 had been requested by Members and Cabinet had simply needed to assure itself these changes had been incorporated; indeed, the Leader had gone through them at the meeting in detail. Further, Appendix 5 was not the document subject to consultation and thus not one for a decision by Cabinet.
- The IDP was a requirement under national Planning policy, which recognised that there may not be certainty or the funding secured for the necessary strategic infrastructure at the time the plan was produced. This point was reiterated in the IDP itself and also seen in other Councils' IDPs. Members had rightly pointed out additional funding was required, but that was countenanced under national planning policy. It would be virtually impossible to finalise, quantify and secure funding such a long time in advance and the IDP would continue to evolve over time.
- With regard to the HIF, these projects would be able to be constructed within the funding envelope agreed with Homes England. There were significant cost pressures which were impacting on the construction sector. The Council's housing target in 2016, before HIF, was 30,000. HIF funding had been secured through a competitive process which allowed the Council to forward fund core infrastructure projects. Without HIF these would have to be funded by developer contributions, which could only go so far and if spent on core infrastructure could not also be spent on community facilities, such as health and education. With or without HIF the housing target remained at 30,000 homes and some form of housing development on the peninsula was inevitable.

The Committee then debated the call-in and the following issues were discussed:

- **Changes made to the Infrastructure Delivery Plan** - some Members considered that the revised Appendix 5 still contained serious errors. In terms of funding which needed to be identified, £100m had been removed from Table 1A in Appendix 5 and clarity was requested on costings so that people on the peninsula could see whether what was being consulted on could be delivered. Officers explained in detail, on a line-by-line basis, why each change to the Infrastructure Delivery Plan had been made.
- **Explanatory document** – Members suggested that an additional document should be produced to clearly explain the key elements of the Hoo Development Framework and how they will be funded, including current uncertainties and the assumptions that had been made around S106 contributions. This would assist Members when engaging with residents. A point was made that the process needed to be more transparent with greater Member involvement.

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- **Budget and Policy Framework considerations** – the Monitoring Officer assured Members that the Cabinet decisions were not a breach of the Policy Framework. The latter was defined in the Constitution and included the Local Plan (referred to as the Development Plan). The Consultation document did not breach any of the policies which comprised the Policy Framework.
- **Hoo Development Framework (HDF)** – officers advised this was at an early stage and was an attempt to show what sustainable development for the peninsula looked like. In the absence of a Local Plan, concerns about delivery were understandable but the document was not a wish list and had been developed in consultation with stakeholders and providers, and at this stage there could not be certainty about costings. Members were assured that the HDF was a part of the evidence base for the Local Plan, which would continue to be developed.
- Members questioned why consultation on the HDF had to happen now when it was dependant on the HIF being delivered, which was not certain. The weight the approved document would be given in the absence of a Local Plan was also queried. The Head of Planning advised that it was now the right time to go out to consultation to set out the wider context for the HIF projects, as requested by residents. The HDF was a consultation document which forms part of the evidence base for the Local Plan.
- Members queried what would happen if developers submitted planning applications for Hoo on the basis of the existence of the HDF when the evidence base was not there yet. The Head of Planning commented that developers understood the situation and were holding back on submitting large planning applications. Any applications made before the Local Plan was adopted would be assessed on its merits. With HIF in place, applications would be more sustainable. Without HIF, S106 contributions would need to go towards the costs of infrastructure.
- **Committing future Administrations to policies** – the point was made that it should be possible to give some guidelines as to what was expected of future Administrations.
- **S106 Contributions** – whether these would need to substantially increase to pay for the projects in the Infrastructure Delivery Plan was queried. Officers advised that the IDP was developed on an iterative basis, that built on past experience in securing S106 contributions and would evolve as the evidence base was gathered. The IDP made clear that only infrastructure required in the first 5 years must be shown to be deliverable. There was a need to be clear about aspirations, but it was not possible to provide certainty over 20 years of development at this stage of the process. The Head of Planning confirmed there would need to be an uplift in S106 contributions, which would fund significant

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elements of the infrastructure, but other funding would still need to be identified.

- **Rail Service offer** – how to future proof this to allow the Medway curve to be built in the future was queried. Officers advised that the rail service proposed was deliverable and enabled the service to grow as the community grew. Initially, there would be a battery operated two carriage train capable of carrying 120 passengers. The impact on existing freight services was a constraint but the tracks existed already and were being tested to make sure they could deliver the expected passenger service. Officers advised the design of the service would not preclude the Medway curve in the future. Whether the land needed for the Medway curve was in Council or third-party ownership would be clarified. It was pointed out that Network Rail had signed up to the Council's proposals. Members expressed surprise at the response that the three transport projects that had been removed had never been part of what had been agreed with Homes England in terms of HIF funding and were for the Council to decide on at a later date. The fact these elements were aspirational had not been made clear.
- **Governance around the Local Plan** – concern was expressed at the lack of wider Member involvement in the development of the Local Plan, with insufficient time for Members to make informed decisions.
- **HIF project** – in response to how much was left of the £170m allocated, Members were advised that an annual budget was prepared and monitored quarterly. To date £10m had been spent, which had helped to provide considerable certainty for the project, involving consultations, due diligence and wider planning for the scheme. A Member queried this figure on the basis £6m had been budgeted for delivery. Officers advised the delivery budget was not overspent, and spend on highways etc would be allocated to the relevant element of the budget and not against the delivery budget. Officers advised that every claim for the costs of HIF projects had to be approved by Homes England.

It was proposed that the decisions be referred back to Cabinet for reconsideration with a recommendation that a new, concise document be produced as part of the consultation process to enable a better understanding of the wider issues in the Hoo Development Framework. Although this was agreed, due to concerns that not all Members had fully understood the scope of the new document being recommended, there was an adjournment so that the exact wording could be formulated and put to the Committee.

Following the adjournment, Members were advised that if the Committee considered the decision had not been fully understood by all Members then it was open to the Committee to rescind its decision. Following a vote, the Chairman announced that the decision to refer the matter back to Cabinet had been rescinded.

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It was then proposed that the Cabinet decisions be referred to Council. The Monitoring Officer advised that the Committee would need to decide that it had considered the advice from the Monitoring Officer and the Chief Operating Officer that the Cabinet decisions were not outside the budget or policy framework, and had decided to disagree with that advice.

The proposal that the decisions be referred to Full Council was agreed.

Decision:

The Committee agreed to refer the Cabinet decisions to Council for consideration.

166 Four Elms Hill Air Quality Action Plan

Discussion:

This report was introduced by the Head of Regulatory and Environmental Services. He explained to the Committee that production of the Air Quality Action Plan (AQAP) for the Four Elms Hill Air Quality Management Area (AQMA) was a statutory duty. The AQAP had been developed through external and internal engagement with stakeholders and had been consulted upon between 7 March 2022 and 24 April 2022. Details of the consultation were set out in section 5 of the report.

Members expressed several concerns, including:

- whether the AQAP would, in practical terms, reduce emissions within the AQMA.
- that emissions would increase in the short term as vehicular usage associated with new developments in the area increased.
- that there was too great a reliance on the delivery of zero emission Heavy Goods Vehicles (HGVs) and Light Goods Vehicles (LGVs) and that uptake of these vehicles depended on National factors. Consideration was also given to uptake of residential and commercial electric vehicles and reference made to barriers such as cost and access to charging stations.
- that more action ought to be taken now, for example, including a requirement for developers to utilise low emission/electric vehicles during the construction phase of any project.
- that the response 'no further/reduced development on the peninsula' was the highest selected action at the conclusion of the consultation exercise, yet the report noted at paragraph 5.8 that this was not feasible in the context of the ongoing Local Plan work. A view was expressed that the AQAP should feed into the Local Plan work which had yet to be agreed.

In response, it was explained to the Committee that creating the AQAP was a complex process which took account of growth associated with the emerging

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Local Plan (including the Housing Infrastructure Fund (HIF)) and future air quality challenges. Modelling had looked at three scenarios:

- 2019. This was a baseline case which had been adjusted to align with monitoring data.
- 2024. This assumed 2024 emission factors and 2037 traffic flows associated with the emerging Local Plan. This was a worst-case scenario.
- 2030. This assumed 2030 emission factors and 2037 traffic flows associated with the emerging Local Plan. This a more realistic scenario, however it was conservative.

Emphasis had been given to three measures (the HIF relief road; zero emission buses through the AQMA; and zero emission HGVs and LGVs through the AQMA) as they were quantifiable, unlike some other measures within the Plan.

It was recognised that the dispersion modelling exercise had indicated that with the HIF relief road and zero emission buses only passing through the AQMA, concentrations of nitrogen dioxide were predicted to still exceed the nitrogen dioxide annual mean air quality objective at Four Elms Hill. However, a phased move toward low emission/electric HGVs/LGVs over the next 10 to 15 years would make a significant impact on concentrations of nitrogen dioxide.

Nationally, the Government had committed to bringing forward this technology but despite recent advancements in this area there was some uncertainty about the speed of uptake. The Council was developing an Electric Vehicle Strategy which could accelerate progress locally. There would also be continued ability to increase availability of electric vehicle infrastructure on developments and public spaces in line with Medway's Air Quality Planning Guidance which was adopted in 2016.

It was explained to the Committee that within the AQAP, a purposefully broad measure concerning low emission HGVs and LGVs could be cited when considering planning applications. The Committee was assured that the Environmental Protection Team scrutinised Construction Environmental Management Plans (CEMPs) and would continue to do this. The AQAP would provide a lever through which more could be asked of developers. In response to a question, it was confirmed that all new HGVs must currently conform to Euro 6 emission Standards.

The Committee was also assured that there were other interventions within the AQAP but as these were presently not quantifiable, these would need to be monitored regularly and adapted as required. The AQAP would be reviewed at least every five years and progress on its measures would be reported on annually within Medway Council's air quality Annual Status Report (ASR) to DEFRA. It was added that there was an internal Steering Group overseeing the implementation of the AQAP.

Further discussing the planning process, the Committee were advised that developers were required to submit an air quality impact assessment alongside

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planning applications. The Environmental Protection Team assessed these and would evaluate the impacts of the proposed development and any cumulative impacts. Where the impact of a development was significant, and the proposed mitigation was not satisfactory then an objection could be lodged against an application and recommendation made for refusal.

In response to a question about how the AQMA area had been defined, officers confirmed it was determined by undertaking monitoring and was set in accordance with the requirements of DEFRA, which looked at where air quality did not meet its objectives at the location of relevant receptors. Asked specifically about the Liberty Park development, it was confirmed that monitoring was undertaken in this location and the data showed that air quality met air quality objectives.

More generally, the Council had two continuous monitoring stations which provided a long-term view of emissions over time. This data was supplemented with data from diffusion tubes which were relocated regularly. Monitoring was undertaken in accordance with DEFRA guidance. It was explained that there were two objectives set by DEFRA, broadly split into short-term and long-term objectives. Measurements would be taken depending on the objective under consideration.

Asked about funding to deliver the measures within the AQAP, it was explained that implementation of the AQAP would be delivered through existing budgets and external funding opportunities (e.g., the DEFRA Air Quality Grant Fund). By having an AQMA and associated AQAP, the Council would be prioritised for DEFRA funding.

Discussing sustainable travel, it was asked whether the AQAP promoted active travel, including providing dedicated cycle lanes. In response, the importance of utilising alternative means of transport was emphasised and formed part of the AQAP. With respect to exposure to air pollution whilst travelling by bike or walking, evidence suggested that the positive impacts of taking exercise outweighed the negative impacts associated with any exposure to air pollutants. A view was expressed that it would be important to promote this information. It was also noted that the Council had been awarded funding through the active travel grant for a cycle lane on Four Elms Hill but delivery had been postponed.

With respect to concerns and questions within the context of the emerging Local Plan, the Committee was advised that the Local Plan needed to consider wider environmental matters to ensure development was sustainable. The Local Plan would, however, include an Air Quality Policy. This was presently in draft form and would be reviewed. Recognising the previous concerns raised by the Committee, it was confirmed that the AQAP was a standalone document to be delivered separately to any process included within the Local Plan work and delivery was not reliant on S106 funding. It was noted that DEFRA had accepted the AQAP.

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Decision:

The Committee:

- a) agreed to recommend the Four Elms Air Quality Action Plan, attached at Appendix 1 to the report, to Cabinet for approval, and
- b) requested the Cabinet to bring forward the dedicated cycle lane on Four Elms Hill.

167 Shared Prosperity Fund Investment Plan Submission

Discussion:

The Assistant Director, Regeneration introduced this report which set out details of the Shared Prosperity Fund (SPF) Investment Plan for submission to the Government. He explained that the Government had allocated Medway Council £1,854,688 SPF investment. This funding would be split across three years in a tapered manner (Year 1: circa £225,000; Year 2: circa £450,000 and Year 3: circa £1.18m). The submission deadline for Investment Plans was 1 September 2022 upon which the funding allocation would be ratified.

Consultation had recently been undertaken with key stakeholders representing various organisations in Medway, including the voluntary and community sector (VCS). Informal expressions of interest were invited to understand the kinds of projects that might come forward. Projects must align with both SPF investment priorities and Medway 2037 priorities.

Recognising the need to carefully manage and monitor the SPF to ensure maximum impact for residents, Members welcomed an opportunity to discuss in more detail the Council's intended delivery strategy and projects as they were developed.

With reference to paragraph 3.3.6 of the report, clarity was also sought on whether the Committee would be sighted on the outcome of monitoring and evaluation of the SPF.

In response, the Assistant Director, Regeneration assured the Committee that the investment plan would be refreshed annually, and he undertook to report back to the Committee following receipt of the first tranche of formal bids for funding in the Autumn. A suggestion was made that consideration be given thereafter as to any need for a working group to be established to give oversight.

Decisions:

The Committee:

- a) noted the proposed Investment Plan for submission to the Department for Levelling Up Housing and Communities (DLUHC) as set out in the summary at Appendix 1 to the report, and

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- b) agreed to receive a further report on the Shared Prosperity Fund Investment Plan in December 2022.

168 Work programme

Discussion:

The Democratic Services Officer introduced the report and noted the addition of an update report in the Shared Prosperity Fund Investment Plan in December 2022 agreed under agenda item 8 (Shared Prosperity Fund Investment Plan Submission).

Decision:

The Committee:

- a) agreed the Committee's proposed work programme, attached at Appendix A, and
- b) agreed the recommendations of the pre-agenda meeting set out at paragraphs 3.3 to 3.5 and the proposed addition to the Work Programme at paragraph 3.6, which has been requested since the pre-agenda meeting.

Chairman

Date:

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