

# EAST STAFFORDSHIRE BOROUGH COUNCIL

## **SCRUTINY (AUDIT AND VALUE FOR MONEY COUNCIL SERVICES) COMMITTEE**

Minutes of the Meeting of the Scrutiny (Audit and Value for Money Council Services) Committee held in the Coltman VC Room, Town Hall on 9<sup>th</sup> February 2022 at 6.30pm.

### **Present:**

Councillors A. Clarke (Chairman), L. Beech, A. A. Chaudhry, M. Fitzpatrick, D. F. Fletcher, S. Gaskin, Mrs V. J. Gould, R. G. Grosvenor, T. Hadley, S. McGarry, C. Sylvester and Mrs L. Walker.

### **Officers Present:**

Andy O'Brien (Chief Executive), Sal Khan (Head of Service), Chris Ebberley (Interim Monitoring Officer), Lisa Turner (Chief Accountant), James Abbott (Corporate and Commercial Manager), Tom Deery (Enterprise Manager) and Monica Henchcliffe (Senior Democratic Services Officer).

### **Also Present:**

Councillor G. Allen and Councillor B. Ashcroft and Mike Hovers (Open Spaces Manager) (for Minute no. 271/22).

Apologies for absence were received from Councillors P. Hudson and C. Whittaker.

## **260/22 DECLARATIONS OF INTEREST**

There were no declarations of interest at the commencement of the meeting

## **261/22 MINUTES**

### **Resolved:**

That the Public Minutes of the meeting of the Scrutiny (Audit and Value for Money Council Services) Committee held on 16<sup>th</sup> December 2021 be approved and signed as a correct record.

Voting concerning the above decision was as follows:

Those voting for the motion	Those voting against	Those abstaining
Councillor L Beech		Councillor C Sylvester
Councillor A A Chaudhry		Councillor Mrs L Walker
Councillor A Clarke		
Councillor M Fitzpatrick		
Councillor D F Fletcher		
Councillor S Gaskin		
Councillor V J Gould		
Councillor R Grosvenor		
Councillor T Hadley		

Councillor R Lock		
Councillor S McGarry		

262/22 **URGENT BUSINESS**

There was no urgent business submitted to the meeting pursuant to Rule 12.

263/22 **TREASURY MANAGEMENT STRATEGY AND STATEMENT AND ANNUAL INVESTMENT STRATEGY 2022/2023**

The Chief Accountant presented the Treasury Management Strategy Statement and the Annual Investment Strategy 2022/23, which fulfils various statutory requirements and best practice guidelines in respect of the Council’s Treasury activities and also its capital investment plans.

An opportunity for questions followed.

**Resolved:**

That Members recommended that full Council approve the Treasury Management Strategy Statement, Minimum Revenue Provision, and the Annual Investment Strategy 2022/23 and did not make any comments or observations to full Council.

Voting concerning the above decision was as follows:

Those voting for the motion	Those voting against	Those abstaining
Councillor L Beech	Councillor A A Chaudhry	
Councillor A Clarke	Councillor M Fitzpatrick	
Councillor S Gaskin	Councillor D F Fletcher	
Councillor V J Gould	Councillor R Grosvenor	
Councillor R Lock	Councillor T Hadley	
Councillor S McGarry	Councillor Mrs L Walker	
Councillor C Sylvester		

264/22 **SCRUTINY REVIEW PROGRESS REPORT**

The Sub-group chairs gave a brief update on the ongoing reviews on the Scrutiny Work Programme.

He reported that the sub-group were in the process of aligning the Waste Management Review reports from both Scrutiny Committees and would be brought to the March Cabinet meeting.

It was reported that:

1. Mayoralty – awaiting Members responses from the survey circulated previously.
2. Disabled Facilities Grants – Trent and Dove has been invited to attend the meeting of the Committee in March.
3. ICT Infrastructure – ongoing.

He reported that dates are being arranged for the sub-group meetings in order to progress the reviews.

## 265/22 **TOWNS FUND PROGRAMME**

At the commencement of the meeting, Councillor Grosvenor (seconded by Councillor D. Fletcher) put forward a motion to suspend Standing Orders in order that Members could ask more than one question, with no time limit to be applied and for members of the public to ask questions. Members were requested to vote on the motion. The motion was lost.

Voting concerning the above decision was as follows:

Those voting for the motion	Those voting against	Those abstaining
Councillor L Beech	Councillor A A Chaudhry	
Councillor A Clarke	Councillor M Fitzpatrick	
Councillor S Gaskin	Councillor D F Fletcher	
Councillor V J Gould	Councillor R Grosvenor	
Councillor R Lock	Councillor T Hadley	
Councillor S McGarry	Councillor Mrs L Walker	
Councillor C Sylvester		

The Chairman requested the committee consider the Towns Fund Programme report, which had been circulated prior to the meeting.

The report provided detailed progress on the Towns Fund programme, to allow for Members of the Committee to review and provide observations to the Cabinet ahead of any decision being made.

The Corporate and Commercial Manager and the Enterprise Manager gave a short presentation and summary of each of the projects, namely:

1. The Towns Fund Programme consisted of seven projects: C; D; E; F; G; H and J.
2. The Business Cases that have been received for project D; E; F; G; H and J and reported that the assessment of submitted business cases were in progress.
3. Project C had been deferred until September 2022 as agreed by the Government following the withdrawal of the project sponsor in November 2021.
4. At the Towns Fund Board meeting on Thursday 23<sup>rd</sup> December 2021, they took the decision to remove project F from the programme, as the business case could no longer meet the original ambition of the project.
5. The Benefit Cost Ratios had been presented to the Council within the submitted Business Cases.
6. Evaluation of Business Cases was opening pending further commentary and clarifications being received from sponsor organisations.

Discussions took place and an opportunity for questions followed.

Information was requested as to why **Project C** had been deferred and **Project F** had been removed from the programme as agreed by the Town Deal Board and how these funds would be allocated, some members felt this had undermined the credibility of the projects. Concerns were expressed that Staffordshire County Council had removed their support for Project F and questioned their motivation to move to the market hall. The Deputy Leader informed Members that the funds from Project F would be recycled to the other projects.

Concerns were expressed that the County Council had withdrawn from this project as they felt they could do the same about the Market Hall move, which would be very detrimental to the Council. It was explained the Towns Board had reluctantly withdrawn the project from the programme as SCC had not provided a bridge proposal that was within scope.

### **Project C**

An update was requested as to who had committed to take on this project. Concerns were expressed that the Council had not taken on the project when it was public money being spent and with the possibility that this would be a major risk to the authority. Information as to why the University of Wolverhampton no longer wanted to participate in the project was requested. It was explained that the leadership of the University of Wolverhampton had changed towards the end of 2021.

Councillor Grosvenor asked when the request to Government was made to defer the project and what justification had been made for the deferral. He also requested a copy of the note sent to Government, and how long the Government would take to come back to the Council to clarify. Officers agreed to provide the information outside of the meeting.

### **Project D**

The Committee noted that when this project was put together, the additional costs had not been known at that time. Concerns were expressed that this cost would be borne by taxpayers and that the full risks and picture of the whole programme had not been provided. A request was received for the quantum of the risks as concerns were expressed about the escalation and had no confidence with the dismissive attitude of the Deputy Leader. It was explained that the original proposal in the Town Investment Plan identified that match funding from the public and private sector was 'to be confirmed' and that the £3m submission was not proposed as the only funding for the project at the time.

The Committee considered Phase 1A, it was reported that there was a figure of nearly £1.5m Section 106 monies. what would that be for; and Phase 2 had a cost of £23m, was this the cost of purchasing the Town House and the Bass House, and was that in the £23m or was it just for one deal. Would the Council become legal owners of the library building and land? Some Members stated that the Market Hall and Library should be situated in their original buildings, and asked that this suggestion be forwarded on to Cabinet. It was confirmed that the allocation of S106 monies for Phase 1a was for the land that would be allocated for affordable housing, with Phase 1b delivering those units. The acquisition of property would take place at the beginning of the project and so was not linked to Phase 2.

Members requested further information on the following:

1. Who would be responsible for the ongoing operation cost of the visitor's centre on the library site?
2. Phase 2 unfunded currently to an addition to business centre, what was this is.

3. The £4m S106 money is to build 22 housing for key workers costing £182,000 roughly, how would the key workers be identified, which could cover all sorts of workers; identify the price of the key workers' houses.
4. Regarding the land swap of the market hall and the library building, who carried out the valuation of the library building as part of this project, and the amount of money that would be received by the Council?

It was confirmed that the project proposed the capital construction of the visitor centre, but that the Council would look to engage an operator to run services from the facility. As such, operating costs and footfall were not modelled as they depend upon the operating model. It was confirmed that no operator was currently contractually engaged on the project.

It was explained that the additional works to the visitor centre under Phase 2 included the rooftop terrace area, but that the café element was included within Phase 1.

Information on the estimated value of the first homes and the organisation who carried out the valuation reports would be provided to the Councillor in question after the meeting.

It was noted that other funding could be available to the project, such as income from the project and other Government funding such as the UK Shared Prosperity Fund, for which the Council would receive an amount of capital funding over the next three years with the amount yet to be confirmed

## **Project E**

Information was requested on the calculation of the footfall of the library building, and whether the library would be bigger at the Market Hall. Members enquired about any financial liabilities of Project D and E, and what would be happening to the Council's Customer Services Centre. It was confirmed that although the library service at the Market Hall would be smaller than the current library, if the project did not go ahead the County Council would consolidate their services within the existing building and the library service would be smaller than it would be at the Market Hall. The Deputy Leader confirmed that the Customer Service Centre was not part of this project and that the relevant Deputy Leader was reviewing the centre separately as per the Forward Plan. It was confirmed that the Council would have no ongoing financial responsibility for the Market Hall in the event of the project going ahead.

Concerns were expressed that public opinion was being ignored as the Market Hall belonged to the Council and was a heritage asset. Queries were received with regards to the cost of both buildings in delivering the project; and information as to where conversation took place to 'swap' the buildings; with which Members of the Council; who made the decision and the numbers for the shortfall. It was confirmed that the consultation response formed part of the Strategic Case of the business case and, when questioned, it was confirmed that it did not form part of the BCR as this was solely an economic indicator. The Deputy Leader confirmed that the decision on the property transfer had not yet taken place because the business case had not yet been approved.

It was stated that some taxpayers did not want the Market Hall and Library move and the facilities should remain as they were. The following questions were then put forward:

1. Why is the food hall in the Market Hall not being taken seriously;
2. What is the full construction cost of the Market Hall;
3. Who did the valuation of the Market Hall;
4. What are the financial implications to the current traders;
5. What are the footfall, and where has the counters being placed;

6. The footfall at Crossley House and the Market Hall, where did this figure come from;
7. There is a 40% uplift from the County Council's proposals, how was this figure arrived at;
8. Why has the County Council ignored the consultations, as people had informed them that they will not go to the Market Hall.

It was confirmed that information relating to the construction cost, footfall uplift and valuation would be provided to the Councillor in question following the meeting. It was explained that footfall counters in the Market Hall were located at the entrances and the information provided on footfall in the appendix did calculate to the correct total for the Market Hall as of 2019/20.

Members requested confirmation of where the S106 monies would be coming from and whether the public were aware of the work to be done during construction. It was confirmed that S106 commuted sums for affordable housing were provided by developers in lieu of providing affordable housing as part of their developments. It was also confirmed that information on the proposal had been provided by Staffordshire County Council as part of their consultation last year.

Concerns were raised that although the library and market hall required upgrading, some residents were against the move, and enquires were made as to why the Council was making this decision.

At this juncture, as three hours had elapsed since the commencement of the meeting a motion to extend the meeting was duly moved and seconded. In accordance with the voting the Chairman declared the motion carried.

Voting concerning the above decision was as follows:

Those voting for the motion	Those voting against	Those abstaining
Councillor L Beech		
Councillor A Chaudhry		
Councillor A Clarke		
Councillor M Fitzpatrick		
Councillor D Fletcher		
Councillor S Gaskin		
Councillor V Gould		
Councillor R Grosvenor		
Councillor T Hadley		
Councillor R Lock		
Councillor S McGarry		
Councillor C Sylvester		
Councillor L Walker		

## **Project G**

Information was requested in order to understand the assessment regarding the usage of the towpath at certain times of the year. Enquiries were made as to whether the Canal Trust would be funding any part of the project, and to how the shortfall of this project would be funded. The Deputy Leader confirmed that any shortfall would not be the Council's responsibility. It was clarified that the indicated shortfall was proposed to be met from the Project F redistribution. It was confirmed that the Canal and River Trust used examples from other areas in order to inform their assessment of whether the enhancements would encourage more usage, and that it had been indicated in the business case that the number of housing developments within the area would likely contribute to an increased need in the area. It was confirmed that the Canal and River Trust did not have permanent usage counters on this section of the towpath, but were requesting that temporary cameras be installed in spring 2022, to gather baseline data with a view to repeating the exercise in 2023.

It was noted that the towpath would be used by people with disabilities, and some members stated it was an excellent project.

## **Project H**

Members enquired as to how this project would be delivered, and who would be leading.

It was confirmed that Staffordshire County Council were leading the project and it formed part of the Local Cycling and Walking Infrastructure Plan for Burton. It was requested what level of contingency had been included in the costs. It was confirmed that provision for a 30% contingency had been made.

## **Project J**

Members sought assurance that the companies mentioned in the project's curriculum were existing businesses, and if the Council had a list of potential businesses. They also requested information on the difference between the courses proposed in the project, and those courses they were currently delivering. It was confirmed that the Council had received information on local businesses, and it was also suggested that queries on courses / curriculum could be picked up with the Councillor in question and the College directly.

## **Observations to be passed to Cabinet**

A motion was put forward by Councillor M Fitzpatrick (seconded by Councillor R Grosvenor) that the Market Hall and Library remain in their original locations, and that the visitors centre be situated near to the water tower. The motion was lost.

Voting concerning the above decision was as follows:

Those voting for the motion	Those voting against	Those abstaining
Councillor A A Chaudhry	Councillor L Beech	
Councillor M Fitzpatrick	Councillor A Clarke	
Councillor D Fletcher	Councillor S Gaskin	
Councillor R Grosvenor	Councillor Mrs V Gould	
Councillor T Hadley	Councillor R Lock	
Councillor Mrs L Walker	Councillor S McGarry	

	Councillor C Sylvester	
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A motion was put forward by Councillor A. Clarke (seconded by Councillor V. Gould) that the entirety of the Committee's discussion in the form of draft Minutes of the Committee be submitted to Cabinet for their consideration. The motion was carried.

Voting concerning the above decision was as follows:

Those voting for the motion	Those voting against	Those abstaining
Councillor L Beech		
Councillor A Chaudhry		
Councillor A Clarke		
Councillor M Fitzpatrick		
Councillor D Fletcher		
Councillor S Gaskin		
Councillor V Gould		
Councillor R Grosvenor		
Councillor T Hadley		
Councillor R Lock		
Councillor S McGarry		
Councillor C Sylvester		
Councillor L Walker		

A list of questions had been received from Councillor A. Chaudhry prior to the meeting, and are appended to these Minutes along with the responses.

266/22 **PUBLIC EXECUTIVE DECISION RECORDS**

Members considered the Public Executive Decision Records.

An opportunity for questions followed.

**NOTED**

267/22 **QUESTIONS**

There were no questions submitted to the Committee prior to the meeting.

268/22 **DATE AND VENUE OF NEXT MEETING**

**Resolved:**

That the next meeting take place on Wednesday 23<sup>rd</sup> March 2022 at 6.30pm.

269/22 **EXCLUSION OF THE PRESS AND PUBLIC**

**Resolved:**

That, in accordance with Section 100(A) (4) of the Local Government Act, 1972, the Press and Public be excluded from the Meeting during discussion of the following items as it would likely, in view of the nature of the business to be transacted or the nature of the proceedings that there would be disclosed exempt information as defined in the paragraph of Part 1 of Schedule 12A of the Act indicated in brackets before each item number on the Agenda:

**PRIVATE MINUTES**

**PRIVATE EXECUTIVE DECISION RECORDS**

**Chairman**

Please see responses to questions raised by Cllr A Chaudhry ahead of the Scrutiny (Audit and Value for Money Council) Committee on 9<sup>th</sup> February 2022.

**1. What is the total ESBC spend to date on Towns Fund? How is this funded?**

Since 2019, the Council has spent a total of £164,062.50 directly on the Burton Towns Fund programme, which has been entirely funded by capacity funding provided by Government for developing the local Towns fund programme. This is the same as the other 100 Towns Fund areas.

The Council also recruited a Town Regeneration Officer in September 2021, which has cost £16,591 to date and is funded through the MTFs. This post also contributes towards the wider work that the Council's Enterprise Team undertakes.

**2. What is anticipated cost of administering the Town Fund to ESBC as accountable body and how will this be funded?**

This will be met through existing resources, capacity funding (as above) or specific allocations within the MTFs.

**3. What is the financial risk to ESBC as accountable body? Does the Council have sufficient funds if these risks materialise or will the Council be bankrupt?**

In the Council's capacity as accountable body, it has the ability to 'pass on' specific risks to delivery partners through legal agreements, including risks associated with the clawback of funding in the event of non-delivery. As such, the transfer of risks will be a consideration of the grant agreements that are created, if the funding is approved by HM Treasury following business case submission.

**4. When the TIP Fund submission was made to the Government, what was anticipated contribution by ESBC and how was this to be funded?**

At the time, the contribution was 'tbc'. In December 2020, Project D was at its concept stage.

**5. When in September 2021, the Government clarified TIP funding as £23.8M for Projects C,D,E,F,G,H and J, what was anticipated ESBC contribution and how was this to be funded?**

At the time, the contribution was 'tbc'. In September 2021, Project D was in the early stages of its public consultation, through which the project scope was defined.

**6. At what point did the cost escalate necessitating £0.5m per annum revenue support?**

Costs have not escalated as they were not known at the time. At the time of submission and agreement of Heads of Terms, the scope of Project D was not confirmed (see above), which has since taken place through the development of the business case.

Please note: the £0.5m debt repayment is linked to a possible need to borrow circa £9.9m, which represents a worst case scenario. Prior to implementing this action, other funding opportunities will be explored, such as using capital income from the project to finance the cost of the project (e.g. sale of residential units in excess of £5m) or other grant fund schemes such as the recently confirmed UK Shared Prosperity Fund, through which the Council will be given capital and revenue monies.

**7. What is the total cost to the tax payer - £9.9M plus interest?**

Please see above (Q6). The cost associated with interest on the £9.9m investment by ESBC was estimated at the time of drafting the MTFS to be £2.541m, assuming a payback period of 25 years.

**8. What does £0.5M equate to in terms of %age Council tax increase for band D property?**

Please see above (Q6). In the eventuality that the full £9.9m plus associated interest is required to be met from Prudential Borrowing, this is the equivalent of 7.4% on a Band D property or £13.86 per annum or £1.39 per month (based on 10 monthly instalments).

**9. Is funding Towns Fund shortfall statutory service?**

If this question is whether delivering the Towns Fund programme is a statutory function of the authority; no it is not. Regeneration as a service is non-statutory.

**10. If it's not statutory service, then why are residents of ESBC carrying this burden after over a decade of austerity and service cuts?**

This question is of a political nature and so cannot be answered by Officers.

Cllr George Allen added: The current administration is very different to the one which preceded. We cannot answer for the decisions made for the ten years prior to May 2019.

**11. Paragraph 5.1.2.7. states "A revised Business Case with supporting appendices was submitted to the Council for review as accountable body on 13th January 2022. Feedback has been provided to the project manager with clarification responses awaited." What information is awaited?**

The evaluation team has requested responses to a number of points, which can be summarised as follows:

- Strategic Case: Clarification on results from an engagement event at the College; the specific roles of key stakeholders listed; linkages to the theory of change; information on any potential equalities impacts.
- Economic Case: Clarification on how economic benefits link into the theory of change; how footfall figures have been baselined and estimated; any undiscounted benefits
- Financial Case: Clarification on how potential Arts Council funding is accounted for.
- Commercial Case: Clarification on how any procurements are being split / phased
- Management Case: Clarification on risk assessment of occupier demand; expansion upon assessment of opportunities to gain from

industry productivity initiatives; expansion on scope management processes.

- Subsidy Control: Clarification on information relating to subsidy control.

A response has been received on the afternoon of 8th February 2022 which will be reviewed shortly.

**12. Paragraph 6.1.2 states “There are potentially further additional revenue costs that may arise from this project once the construction phase is complete” What are likely additional revenue costs?**

The paragraph goes on to say “these are yet to be identified pending any decision on the future delivery model”. The business case for Project D is modelled on the basis of newly constructed facilities being sold or operated by an external organisation. In the future, the Council may wish to operate these facilities in-house, which would in turn have revenue implications. These are entirely dependent on future decisions on the delivery model for the built facilities.

**13. Is all land for Project D acquired and available for development and where is the money for land acquisition?**

No. Please refer to the MTFs papers and Appendix 2 of this report.

**14. What is the risk to the Council and cost to ESBC tax payers if the Council fails to acquire all the land for Project D?**

If the land for Project D is not available, the project will not go ahead. However, the recent press release regarding this should be considered.

**15. Paragraph 6.1.3. states “The proposed Medium Term Financial Strategy also makes a number of revenue budget provisions in respect of the Towns Fund:**

- The expected impact of closure of the Market Hall in 2023/24, including a package of support for existing traders;**
- A one-off provision of £0.459m to mitigate any unforeseen costs that may arise from such a large complex undertaking.”**

**Why should the ESBC tax payers subsidise Town Fund and bear this cost? What direct service will they get in return for this significant sum?**

The one off provision in the MTFs is for the Council-led Project D. As such, it is to support the delivery of the Council’s own project, not the wider Towns Fund programme. The benefits of this project are summarised in the executive summary appended to the report.

**16. Paragraph 7.1.2.1. states “Specific projects have highlighted escalating construction costs as a risk / issue, however this is a potential risk across all projects.” Please quantify this risk given unprecedented increase in construction costs?**

Construction inflation is built into the project financial models alongside appropriate contingency budgets, particularly for Projects D and E as the property projects. Further sensitivity analysis is also undertaken, testing the impact of scenarios where project costs increase further as a result of greater than modelled construction inflation. In each scenario, the project BCRs remain either acceptable or high value for money.

**17. Is Project E dependent upon Project D?**

No. However, a requirement of the County Council's submission of the Project E business case was that the proposal facilitated broader regeneration on the existing library site.

**18. Staffordshire County Council has said they can deliver library service and consolidate other services in existing Library building and they are not dependent upon Market Hall. Why is ESBC so desperate to relinquish the historic Market Hall building?**

This statement is true. If Project E does not go ahead, Staffordshire County Council will consolidate the services within the existing library building. The library service will then operate from the ground floor only, within a space of around 593 sqm. The space provided specifically to the library service at the Market Hall would be 830 sqm, which is around 80% of the current library service size.

The question that follows the statement is of a political nature and so cannot be answered by Officers.

Cllr George Allen added: The consultation to date and conversations with members have led the administration to believe the Market Hall as a building is an extremely important heritage asset that many people in the Borough care about. Project E gives the building a sustainable use over many years and provides extensive investment in the structure which will keep the building from falling into disrepair.

**19. In public consultation, 77% of respondents are against Project E and moving library to the Market Hall. Why is such overwhelming public opinion ignored?**

Public consultation responses form part of the strategic case within the 5 case Green Book business case model. As such, it forms part of the business case and the assessment of the business case. Any decisions that follow that process are for Council Members to make.

**20. Did the Leader of the Council write to the Staffordshire County Council (SCC) before the public consultation had closed on Project E? Please share copy of this letter and other relevant correspondence with SCC to all committee members?**

No, the Leader of the Council did not write to Staffordshire County Council before the County Council consultation on Project E had ended.

**21. Is footfall for Project E double or triple counted; for example, all people using toilets will actually use the library service?**

The footfall figures are disaggregated to represent the primary reason for visits. It is not accurate to state that all users of the toilets also use the library service. The same can be said of the café service.