

**Minutes of a meeting of the
Joint Overview & Scrutiny Committee
Adur District and Worthing Borough Councils**

QEII Room, Shoreham Centre, Pond Road, Shoreham

8 June 2023

Chair Councillor Joss Loader

Adur District Council:

Councillor Carol Albury
Councillor Tony Bellasis
Councillor Ann Bridges
Councillor Lee Cowen
Councillor Paul Mansfield
Councillor Sharon Sluman

Worthing Borough Council:

Councillor Heather Mercer
Councillor Elizabeth Sparkes
Councillor Cathy Glynn-Davies
Councillor Dan Hermitage
Councillor Margaret Howard
Councillor Dan Humphreys
Councillor Richard Mulholland
Councillor Hilary Schan

Absent

Councillor Mandy Buxton, Councillor Paul Mansfield

JOSC/1/23-24 Declaration of Interests

There were no declarations of interest made

JOSC/2/23-24 Substitute Members

Councillor Andy McGregor substituted for Councillor Mandy Buxton

JOSC/3/23-24 Confirmation of Minutes

The minutes of the meeting of the 16 March 2023 were approved as a correct record and were signed by the Chairman

JOSC/4/23-24 Public Question Time

There were no public questions

JOSC/5/23-24 Members Questions

There were no questions from Members

JOSC/6/23-24 Items Raised Under Urgency Provisions

There were no urgent items

JOSC/7/23-24 Consideration of any matter referred to the Committee in relation to a call-in of a decision

The Committee had a report before it from the Monitoring Officer detailing the reasons a Call-In was rejected from being considered by the Joint Overview and Scrutiny Committee.

Resolved: The committee noted the report

JOSC/8/23-24 Planning Enforcement

The Committee had a report before it attached as item 8, which had been circulated to all Members and is attached to a signed copy of these minutes. This report responded to a JOSC request for a review of planning enforcement issues, planning enforcement policy and the Council's approach to planning enforcement. The report set out the legislative background and national planning policies relating to the enforcement of Planning Control. The report highlighted the Council's Enforcement Policy and the relevant planning considerations in deciding whether to take enforcement action. The report also highlighted resourcing issues and compared the resources currently available to other Councils.

A Member asked, "Paragraph 6.8 - What is the relationship between Approved Inspectors and the council and what powers, if any, do the council have to question Approved Inspectors?"

Members were told that there was no relationship between the two and that the council had no powers over approved inspectors. That building control officers could not enter a site where there is an approved inspector but they could go on as agents of planning.

A Member asked, "Paragraphs 5.0 and 6.5 - Would there be a benefit in better monitoring those cases that are quickly dealt with by Officers and not registered as complaints in order to get a better idea of the council's performance on serving the public?"

Members were told yes, that it would be a matter of expediency if something was dealt with it would save/avoid administrative time. A record of those cases would also highlight the workload the planning team dealt with.

A Member asked, "My question is around failing to comply with a condition set out in the Construction and Environmental Management Plan. Please can you take us through a timeline of the process of enforcement from the point a complaint is registered about site conditions, your contact with the developer, visits to the site, the issuing of a planning enforcement order, more follow-ups, and then the issuing of a stop notice for non-compliance."

Members were told that one trend they had noticed was with some larger contractors, the construction management plans could be vague in terms of necessary measures, which made it difficult to enforce. They were working with environmental health to be more specific in construction management plans. As far as timeline, the team acted on a triage basis and responses depended on the breach. Hours of working could also be an issue. Giving a timeline was difficult as it depended upon the seriousness and nature of the complaint. Members were also told that Breach Condition notices took 28 days to take effect and so were quite a slow way to react. Stop notices were rarely used and were usually served with an enforcement notice at the same time. They were issued when a serious danger to people arose. They felt that they had a better condition with contractors

than previously and found the best way to resolve most issues was to speak with them directly.

A Member asked "How does the council objectively manage planning enforcement complaints without bias when they are regarding council owned land and buildings?" Members were told that the Council was unable to take enforcement action or enter into a legal agreement with itself. Invariably the Council did its' best to comply with planning permission. A strict code of conduct existed to ensure officers acted properly at all times.

A Member asked "Page 21 states 8 weeks investigating a breach, sometimes more depending on the complexity of the circumstance. I'm aware of a case where a development progressed without a signed off landscape plan and a Breach of Condition notice was issued. Subsequently, it took over two years to form a landscape plan that is near pleasing to the residents; are there other ways to expedite resolution to this and other complex cases?"

Members were told that unfortunately developers were good at delaying enforcement action. Where a Breach of Condition Notice was issued regarding landscaping, where a landscaping plan hadn't been agreed, they had to serve a notice for a plan to be submitted within a time scale and it was then up to the planning authority to agree to that plan. There could then be further complications if residents were to move in during that time, which can delay the process further.

A Member asked "Paragraph 4.3 states 'Do not have the resources to monitor compliance with conditions and following the grant of planning permission the onus is on the developer to 1 ensure conditions are discharged and development proceeds in accordance with the approved plans' - Can you explain whether this opens the council up to a position where developments could be going against their permissions across the borough and district, and does incorrect development have further impact on the residents in the surrounding area?"

Members were told that the position on planning conditions had improved in recent years as developers now had to apply for and had a fee for the discharge of conditions. Solicitors and developers were more aware of them being checked when people were buying properties. Case law stated that if pre development conditions were not discharged, they may find that they then did not have planning permission.

A Member asked "Appendix A - Page 23' Deciding whether to take Enforcement Action Worthing Borough: Worthing Local Plan 2003, Worthing Core Strategy 2011 Adur District: Adur District Local Plan 1996. Statutory: Town & Country Planning Act 1990.'

Are all these reflective of planning practice in 2023 or would Planning Enforcement be a section of the authority worth reviewing to ensure compliance and good development?"

Members were told that most of these had been superseded, that enforcement was reviewed each year and procedures were regularly monitored.

A Member asked "In paragraph 4.2, it states that the Council takes breaches of planning "very seriously" yet acknowledges in 4.3 that resources are limited and the service is "reactive". The Government advice also states, "Effective enforcement is important to maintain public confidence in the planning system." I have no issue with the officers in the enforcement team, who are responsive when I contact them, but how does the council reconcile its two statements in 4.2 and how can the public be expected to have the skills and knowledge to effectively monitor and report suspected breaches?"

Members were told that the council provided an effective service in reacting and that local authorities fell foul of the ombudsman when they didn't. Decision notices were often

sent to neighbors of applications with advice and guidance as well as sign posting further information. One of the issues was that the planning process had become so complex it was difficult to know sometimes what constituted a breach. A lot of it came down to what resources were available and where best to place them.

A Member asked “How much does the planning department cost the council taxpayers? Please detail income from fees and costs and balance against operational costs. Should application fees be raised to enable further recruitment (in addition to the part-time post that's pending) and proactive enforcement?”

Members were told that planning was one of the most expensive council services to run. Planning applications fees were minimal compared to the costs of delivering the service, in officer time, sending out notifications and the printing and postage costs associated with it. It was also noted that planning application fees were national and defined by the central government.

A Member asked “The report sets out at Paragraph 3.0 the legislative framework governing planning control. As I understand it, the Council has the right to apply enforcement action when a breach of planning control affects public amenity. How much consideration is given to historic objections and complaints by residents on the grounds of health, safety, nuisance, and environmental risks and what constitutes a public amenity, and how do you know that previous recommendations and restrictions have been obeyed?”

Members were told that the council could not take historic/retrospective issues into account when dealing with applications. Each application had to be taken and considered on its own merit. Where physical infringements like overshadowing were easier to evidence, complaints like loss of view or value were harder to evidence.

A Member asked “When consideration is being given to a new application, retrospective or otherwise, how accessible to our enforcement officers are records of historic objections to applications made by the same applicant, particularly those setting out environmental, nuisance and health and safety risks and when planning permission is granted in a residential area, particularly when the planning application is retrospective, and objections have been received on environmental and health and safety grounds, how effectively is the development, and any restrictions or recommendations made by the Council, monitored once permission has been granted?”

Members were told that when considering a new application, historic issues shouldn't be considered. If breaches weren't occurring when officers attended then it required residents to maintain a log and potentially appear in court if a breach of condition notice was served.

Resolved: The committee

- I. Noted the contents of the report.
- II. Recommended that when the planning enforcement team has the resources, they monitor and report back on minor complaints received that do not go to enforcement action

JOSC/9/23-24 Annual JOSC report 2022/23

The Committee had a report before it, attached as item 10, which had been circulated to all Members and is attached to a signed copy of these minutes. This report set out the

draft Annual report for the Committee covering the 2022/23 Municipal year in accordance with the terms of the Councils' constitutions.

Resolved: The committee noted the report

JOSC/10/23-24 Improving the effectiveness of JOSC

The Committee had a report before it attached as item 11, which had been circulated to all Members and is attached to a signed copy of these minutes. The purpose of this report was to update Members of the Joint Overview and Scrutiny Committee (JOSC) on the findings of the JOSC Workshop that took place on 13th April 2023 and for the Committee to consider the comments and proposals made at that Workshop which were presented in Appendix 1.

Members debated approaches to public engagement and awareness, the consideration that needed to be given to where the drive for change was coming from; that while outcomes from the workshop were good the workshop itself was not politically balanced. Members discussed the merits of auditing the different skills and knowledge bases that Members had as well as the number of questions Members were allowed to submit prior to meetings.

Resolved: The committee agreed

I. To implement the following points from paragraph 4.2 of the report

- Pre-submitted questions are limited to 2 per Member to encourage effective on the spot scrutiny, at the Chairs' discretion
- That Cabinet Members be requested to provide a briefing note for their interviews in advance of the meeting;
- That the Cabinet Members should provide their own written responses to Member questions with factual information provided by Officers. Such responses to be checked by the Democratic Services team to ensure any exempt information is properly shared in accordance with our Access to Information procedure rules.
- That published reports remind JOSC Members that there is a question time section after each Cabinet Member interview and that Members may make recommendations.
- If JOSC is keen for a Working Group to consider and develop a pre-decision making focus, then a shorter term strategy would be to include consideration of the Forward Plan of Key Decisions as an item on each JOSC agenda as part of the ongoing Work Programme.
- Through communication with their Leaders JOSC works to create a culture of encouragement and support for its work, particularly in supporting the attendance of Cabinet Members at JOSC meetings when requested and in communication generally.
- That JOSC monitors and reviews the Work Programme to ensure that the items on the work programme will deliver effective scrutiny and are still required.
- That JOSC consider introducing informal business planning meetings or pre meetings before each JOSC meeting
- As part of a training review, a mentoring scheme was proposed for new members to JOSC and also a social gathering event for all Members ('speed dating' or other informal gathering event was proposed) this would allow Member to get to know each other's strengths provide support to new Members and build on confidence.

- For JOSC to consider more active engagement with the public as witnesses and/or co-optees on matters before the Committee.
 - For Members to agree to a skills and experience audit, to enable the Committee to effectively include Members comments when discussing certain agenda items and/or for appointments to Working Groups.
 - That the JOSC Work Programme business be RAG rated to cover upcoming business and this can be implemented immediately if agreed. That a request will be made to review the cycle of the venues when considering the 2024/25 meeting dates.
- II. To appoint Councillors Bellasis, Hermitage, Loader, Mercer, Sluman and Sparkes to a working group to review those terms of reference for Improving the effectiveness of JOSC.

JOSC/11/23-24 Review of JOSC Work Programme

The Committee had a report before it attached as item 12, which had been circulated to all Members and is attached to a signed copy of these minutes. This report outlined progress and plans for implementing the work contained in the Joint Overview and Scrutiny Committee (JOSC) Work Programme for 2023/24.

Members discussed the vacancy on the working group for temporary accommodation outside of Council areas, the timing of the working group to review the Adur homes repairs, and the scrutiny request on the issue of developing a green. Members also discussed the timing of hearing from the Cabinet Members responsible for the foreshore team and the schedule of Cabinet Member interviews.

Resolved: The committee agreed

- I. To note and recommend to Adur District Council and Worthing Borough Council the progress to deliver the JOSC Work Programme for 2023/24
- II. To appoint Councillor Cowen to the Working Group for temporary accommodation outside of Council areas
- III. To reject the scrutiny request regarding Developing a Green - Blue Regenerative Tourism digital map for Adur

JOSC/12/23-24 Interview with Adur Cabinet Member for Finance & Resources

The Committee had a report before it attached as item 9, which had been circulated to all Members and is attached to a signed copy of these minutes. This report set out background information on the Portfolio of the Adur Cabinet Member for Finance and Resources, to enable the Committee to consider and question the Cabinet Member on issues within their portfolio and any other issues which the Cabinet Member was involved in which connected with the work of the Council and the Adur communities.

A Member asked “Since the council has yet to be successful in any of the government's competitive capital funding bids such as the towns fund, future of high streets fund and levelling-up bids. What has the council learned from the previous unsuccessful bids and what has it put in place to ensure our next bid will be a successful one?”

Members were told the council had submitted a number of funding bids, some with success included securing £1.7m from the Local Growth Fund to support Focus House (Shoreham), but as external funding was usually a competitive process they hadn't been successful with others. The Council did bid for the High Streets Fund a few years previously and whilst they had received positive feedback the funder did indicate that Council needed to demonstrate greater 'need' for the project through a more robust evidence gathering exercise.

With this feedback in mind, they had adapted their approach for the pending Levelling Up bid to ensure it, and any future bids, were co-produced and agreed with a number of local stakeholders and the community. The focus for the Levelling Up bid would be on Lancing and the work of Officers in the previous 6 - 9 months, which had enabled a clear evidence base, good community conversations and they were now working on a number of asks, including the possibility of upgrading the public realm in the village center. Whilst no bid was ever guaranteed they felt they would continue to build a solid case for investment but did require a coordinated effort for the best chance of being successful.

They felt it was worth noting that the Council couldn't bid for the Towns Fund as this was direct allocations from government to certain towns and cities, rather than a bidding process, although Officers did lobby for Adur to be included.

In addition, there had been multiple successful funding bids received to restore and enhance the nature and landscape around the district, including:

- Defra Test & Trial to fund intertidal habitat restoration (£76k);
- Defra Landscape Recovery Fund - ADC was a landowner and one of delivery partners in the partnership bid led by Knepp Wildland Foundation to improve the quality, resilience and biodiversity of the river - £500k;
- £1.5m for Adur Community Wetlands (New Salts Farm)
- Secured DEFRA Natural Environment Readiness Fund (£79k, Sept 2021)
- £1.6m had so far been secured from the Public Sector Decarbonisation Fund for carbon reduction projects.

A Member asked "How has the AH referral to the Regulator impacted the morale and well-being of CS based officers and how are the wellbeing and professional development of these valued staff members being supported?"

Members were told this has been an exceptionally challenging time for the team. The referral had been difficult especially given the scale of the issues needed to put right. There was a lot of work to do and they did not yet have the right capacity in place, partly due to the difficulties of finding housing people within the current market.

Getting the right leadership in place had been critical to provide the direction and support needed for staff to help them and provide the right infrastructure for their roles. The team was involved in the development of the improvement plan and communications and engagement were being carried out consistently.

The wellbeing and resilience of staff was of utmost importance and was being prioritised at all times.

A Member asked "I note that the Council Tax and National Non-Domestic Rates debt write-off has fallen across the last 2 years, significantly less than 2019/20 and previous years before that. Is there any particular reason for this?"

Members were told in both financial years, but particularly in 2020/21, significant additional rate relief was provided to businesses as a result of the pandemic.

Consequently there was less business rates to be collected and so a lower rate of default as a result.

The meeting was declared closed by the Chairman at 8.55 pm, it having commenced at 6.30 pm

Chairman