

## Overview and Scrutiny Committee

Minutes of a Meeting of the Overview and Scrutiny Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **24<sup>th</sup> July 2018**.

### Present:

Cllr. Chilton (Chairman);

Cllr. Michael (Vice-Chairman)

Cllrs. Bartlett, Buchanan, Dehnel, Farrell, Miss. Martin, Mrs. Martin, Mrs. Webb.

In accordance with Procedure Rule 1.2 (iii) Cllr. Mrs. Webb attended as Substitute Member for Cllr. Burgess.

### Apologies:

Cllrs. Burgess, Knowles, Krause.

### Also Present:

Strategic Lead for the Chilmington Community Management Organisation (CMO) Project, Chilmington Community Management Organisation Project Manager, Planning Policy Manager, Head of Corporate Policy, Economic Development & Communications, Senior Policy & Scrutiny Officer, Member Services Officer.

## 118 Declarations of Interest

Cllr. Feacey made a Voluntary Announcement since he was Chairman of Ashford Volunteer Bureau.

Cllr. Dehnel made a Voluntary Announcement since he was a Member of Kingsnorth Parish Council.

## 119 Minutes

### Resolved:

**That the Minutes of the Meeting of this Committee held on the 26<sup>th</sup> June 2018 be approved and confirmed as a correct record.**

Cllr. Mrs. Martin requested it be noted that her agenda was received by post in plenty of time and she wanted to express her thanks to the Member Services Team.

## 120 Chilmington Management Organisation Report

The CMO Strategic Lead introduced this item and explained that the report was brought before the Committee following a request made at the Budget Scrutiny Task Group. The Committee wanted to review the planned Chilmington (Green) Community Management Organisation (CMO) model in comparison to a 'traditional' resident management company (private companies created by housing developers), and the wider application of the CMO model.

The Council's key objective when forming the CMO was to deliver long-term stewardship in the form of an independent and not for profit organisation, which would serve the interests of residents, the developers and the Council. The idea was unique to Ashford in that the CMO was designed as a resident focussed management operation, as opposed to 'traditional' style Private Management Companies (PMCos). The governance arrangements included residents, local authorities, developers, nominated trustees, alongside nominations from the voluntary and community and Housing Association sectors and would have continued support from the Local Authority. Ultimately, it was a Trust intended for control by the residents. Negotiations had taken place over the last 4 years and were a just a few weeks away from finalisation. The Section 106 agreement had been signed in 2016.

PMCos were typically implemented for managing apartment blocks with communal areas and amenities, and service charges were collected from residents towards ongoing fees and costs. Increasingly PMCo's were being used by developers for managing larger housing developments. Better ones operated to a code of practice approved by Government, but this was not mandatory and the government were seeking to ensure residential freeholders had similar rights implemented. There was also a motion by government to cap service charge payments, which ABC had already included as part of the CMO arrangement.

The CMO Strategic Lead went on to explain that this model would not be suitable for all developments in the Borough; it was geared more towards large-scale housing areas.

The report was then opened up to the Committee and the following points/questions were raised:

- A Member asked about the relationship between the CMO and Parish Councils, and would there be any overlap between the two. The CMO Strategic Lead explained that it was assumed that a new Parish Council would be created at Chilmington Green and would sit alongside the CMO. Discussions would need to take place between all stakeholders to ascertain rights and responsibilities of each. A Parish Council representative would be allocated a non-voting position on the CMO Board and usual conflict of interest rules would apply to any Members undertaking a dual role. There would be up to 10 positions available initially on the Trustees Board with 50% rights apportioned between developers and non-developers' nominated directors. The Council and the developers had put contractual safeguard measures in place to ensure that the Trust undertook its responsibilities and the framework operated effectively.

These measures were designed to ensure commitment to the CMO, that it operated effectively and that matters of key interest to the Council and developers were respected. In cases of voting 'deadlock' (five vs five), the contractual arrangements stipulated that the Board should convene again to try to reach a conclusion. If no resolution were achieved then as a last resort, a formal dispute resolution route would be taken.

- Members went onto speak about PMCos under performing and the consequences for residents, but welcomed the CMO and its new approach. The CMO Strategic Lead acknowledged that some PMCos had come under criticism for the way they operated, and confusion sometimes arose as to why residents paid both Council Tax and a Service Charge. In some instances, monies were collected from residents, but the work was not undertaken well, or not at all and this resulted in PMCos now having to issue refunds. It was explained that this concern was discussed during the negotiations and the Developer was aware that there would be consequences if they did not fulfil their part of the agreement. A legal document had been put into place that clearly stipulated what the funds collected by the CMO were to be spent on, and this included mainly landscaping and public realm activities. The CMO would have other income however, and any anticipated surplus funds would be managed accordingly.
- A Member requested that the sum total of grant received from the Developer be emailed confidentially to the Committee.
- The CMO Strategic Lead spoke about the CMO's intention to register as a charity since this would ensure further safeguards as funds and assets would have even greater protection
- The Policy Manager explained to the Committee that the Planning Policy for governance of public community spaces and facilities was contained within the Local Plan and the Chilmington Green Area Action Plan. The Council's default position was not to adopt these spaces and facilities, since the burden could then fall to tax payers in the future and the emerging Local Plan Policy gave specific preference to community stewardship models. The Chairman enquired as to whether the Council could set up a trading company with the objective of managing communal spaces and other areas that would not be adopted by authorities in new developments, and it was confirmed that this was theoretically possible.
- Members agreed that it would be useful to create a database containing details of all PMCos in Ashford.
- It was confirmed that the Trust would be subject to periodic audit reviews. The Trust would also be subject to any legislation or code of practice changes implemented by Government. The Committee agreed that a handbook designed to offer residents with guidance on establishing and maintaining a PMCo would be helpful.

- A Member said that it was a shame that Portfolio Holders could not be present at the meeting since a good debate had taken place.

**Recommendations:**

- That
- i) Where developments are granted planning permission within which a management company will be established, planning conditions should be stipulated which require that the Local Planning Authority be notified of the management company's formation and registration with Companies House. Developers must also detail how residents will be involved in the management of the company and their rights, and the Local Planning Authority should approve this;
  - ii) Where developments are granted planning permission within which a management company will be established, planning conditions should be stipulated which require the developer to supply prospective occupiers of new dwellings with comprehensive information on the management arrangements for the development, including such information as:
    - The Right to Manage (for leaseholders)
    - Residents' rights under a management company
    - Challenging a management company's mechanisms
    - Challenging service charge levels
    - The process for changing a management company
  - iii) The Council produce a 'Resident Trustee Pack' for occupiers of existing and new developments with a management company, including such information as:
    - The Right to Manage (for leaseholders)
    - Resident's right under a management company
    - Challenging a management company's mechanisms
    - Challenging service charge levels
    - The process for changing a management company
  - iv) The Council establish and maintain a record of all Management Companies operating in the borough and the assets that these companies maintain.
  - v) The Council lobby central Government to introduce a legal requirement for resident Management Companies to register with the relevant local planning authority

## **121 Future Reviews and Report Tracker and Topic Selection**

The Chairman introduced this item and explained that there was only one item for August listed on the Tracker; a Better Choice for Property Limited. He asked the Committee if they wished to proceed with the meeting, advising that it would be necessary to define the scope of this meeting in order to give Officers sufficient time to gather any required information and reports. The Committee felt that there had been some confusion (following the recent Cabinet meeting), regarding the aims of the Property Company as recorded in the original business plan and therefore a review of the company's business objectives would be helpful. Members also felt that recent changes to the directorship of the Company raised questions about the role of Council in ratifying decisions of the Trading and Enterprise Board. A Member advised that he would send through additional areas of concern by email to the Senior Policy and Scrutiny Officer.

A Member advised that the Company's Annual General Meeting was scheduled to take place in August and considered whether the O&S Committee should meet prior to that meeting. The Senior Policy and Scrutiny Officer advised that since Cabinet would not be meeting in August, and Council would not meet until October, any recommendations from the Committee would not be considered until September at the earliest. Members determined that there was no need to bring forward the Overview & Scrutiny Committee from the original date (28<sup>th</sup> August).

### **Resolved:**

**That the report be received and noted.**

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