



## Notice of a public meeting of

### Corporate and Scrutiny Management Policy and Scrutiny Committee

- To:** Councillors Williams (Chair), Galvin (Vice-Chair), Crisp, D'Agorne, Fenton, Gates, Levene, Lisle and Reid
- Date:** Monday, 7 November 2016
- Time:** 5.30 pm
- Venue:** The Thornton Room - Ground Floor, West Offices (G039)

### AGENDA

#### 1. **Declarations of Interest**

At this point, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

#### 2. **Minutes** (Pages 1 - 8)

To approve and sign the minutes of the meeting held on 5 September 2016.

#### 3. **Public Participation**

At this point in the meeting members of the public who have registered to speak can do so. The deadline for registering is **5.00pm on Friday 4 November 2016**. Members of the public can speak on agenda items or matters within the remit of the Committee.

To register to speak please contact the Democracy Officer for the meeting, on the details at the foot of the agenda.

### **Filming, Recording or Webcasting Meetings**

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Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

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#### **4. Schedule of Petitions (Pages 9 - 20)**

This report provides the committee with details of new petitions received to date, together with those considered by the Executive or relevant Executive Member/Officer since the last report to the committee. Members are asked to consider the petitions received and actions reported, and agree an appropriate course of action in each case.

#### **5. Update Report on Peer Review Action Plan (Pages 21 - 30)**

At its last meeting, CSMPSC Members agreed that it would be appropriate for the committee to monitor progress on the *"implementation of the Action Plan through consideration, and comment on the quarterly performance monitoring reports"*. This report sets out a brief summary of progress to date with the Action Plan, ahead of the reporting being embedded into quarterly performance monitoring from Quarter 3.

**6. Briefing Paper on Administration of Section 106 Agreements**  
(Pages 31 - 46)

This report presents Members with information around Section 106 arrangements and how they are administered.

**7. Work Plan 2016-17** (Pages 47 - 48)

Members are asked to give consideration to the committee's work plan for 2016-17.

**8. Urgent Business**

Any other business which the Chair considers urgent.

Democracy Officer:

Name: Laura Clark

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For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

**This information can be provided in your own language.**

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550



City Of York Council

Committee Minutes

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Meeting	Corporate and Scrutiny Management Policy and Scrutiny Committee
Date	5 September 2016
Present	Councillors Levene (Chair), Galvin (Vice-Chair), Crisp, Fenton, Lisle, Williams, Cuthbertson (Substitute) and Kramm (Substitute)
In attendance	Councillors Carr and Aspden (item 4)
Apologies	Councillors D'Agorne, Gates and Reid

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## 20. **Declarations of Interest**

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they might have in respect of business on the agenda. Councillor Williams declared a personal interest in agenda item 7 – One Planet York Scoping Report, as his employer was a sponsor of this initiative.

## 21. **Minutes**

Resolved: That the minutes of the Corporate and Scrutiny Management Policy and Scrutiny Committee meeting and the minutes of the Calling-In meeting held on 25 July 2016 be approved as a correct record and then signed by the Chair.

### Matter Arising – Elections Scrutiny Review Task Group (minute 16)

It was noted that the Labour Group nomination on the Elections Scrutiny Task Group would be Councillor Levene. Further consideration would be given to the Green Group nomination.

## 22. **Public Participation**

It was reported that there had been two registrations to speak at the meeting under the Council's Public Participation Scheme.

Mr Mendus, Independent Member of the Audit and Governance Committee, spoke in relation to an item within the general remit of the committee - the enforcement of S106 agreements. He stated that, although Veritau had carried out a recent audit and had given a “reasonable assurance” opinion on the controls within the system, he had some concerns about the enforcement of S106 agreements. He suggested that this was an issue which the committee may wish to consider in more detail and that consideration should also be given to placing scorecards on the Council’s website detailing the performance of developers in meeting the requirements of the S106 agreements.

Ms Ginnie Shaw spoke in relation to agenda item 7 - “One Planet York Scoping Report”. She stated that she welcomed the remit that was outlined in the scoping report that was to be considered by the committee. Ms Shaw suggested that consideration could be given to work that was taking place in Sheffield and Bristol in order to learn from best practice and she urged that the committee formed a task group with a clearly defined work plan to take this issue forward.

The Chair thanked the speakers for their contribution.

Referring to the issues that had been raised by Mr Mendus, Members agreed that it would be useful for the committee to receive a scoping report on the implementation of S106 agreements. Because of the cross-cutting nature of this issue, it was suggested that if it was agreed to proceed with a scrutiny review, consideration would be given to establishing an ad-hoc task group which would include Members from other scrutiny committees.

The Chair stated that the points raised by Ms Shaw in respect of One Planet York would be taken into account when the committee considered that item on the agenda.

Resolved: That a scoping report be presented to the committee on the issue of S106 agreements, including how the agreements were administered and controlled and how the information was made available to the public.

Reason: To enable the committee to determine whether to proceed with a scrutiny review on this issue.

**23. Executive Leader and Deputy Leader Update on Progress in Implementing 12-Point Policy Plan**

The Executive Leader and Deputy Leader had been invited to attend the meeting to give an update on the delivery of priorities in the 12-Point Policy Plan.

The Leader and Deputy Leader highlighted the following issues:

- The consultation that was taking place in respect of the Local Plan.
- The decision that had been taken by the Executive in response to representations received regarding proposed cuts to bus subsidies.
- The City Vision. Members were informed that directorate business plans provided more detail about the implementation of the vision and the measures in place to monitor performance.
- As requested by the committee, more detailed information had been circulated regarding the 12-point plan.
- The launch of the Economic Strategy and the work that was taking place in respect of economic development, including the Business Friendly Council initiative.
- The Senior Management review and the savings that had been achieved through the deletion of a Director and Assistant Director post.

Members questioned the Leader and Deputy Leader on issues including:

- The importance of York Central to the successful delivery of the Local Plan, including issues in respect of the proposed housing density and employment opportunities.
- Proposed measures to address air quality, pollution and congestion, including consideration of ways to promote sustainable travel. The Executive Leader and Deputy Leader outlined some of the actions that had been taken, including solar installations and an increase in the number of electric vehicles. It was also proposed to look at ways of addressing the issue of large loads being brought into the city and to encourage greater use of public transport.
- The timescale and dates by which the senior management reorganisation had taken place.
- The Council Vision. Members requested that future updates to the committee focus on progress against the delivery of the Council Plan rather than the 12-point priorities.

- The Committee's role in monitoring the implementation of the Peer Review Action Plan. Members requested that clear links be established between recommendations and actions to enable effective monitoring.
- The involvement of staff and trade unions in the development of the Performance Framework.
- Clarification of the policy in respect of green bins.
- In response to questioning as to whether the current structures that were in place were operating under good governance, the Executive Leader stated that great strides had been made to ensure that the right management team was in place and that there was now less silo working.

As requested at the meeting on 13 June 2016, a further request was made for information to be provided to the committee on the funding arrangements for Yearsley Pool<sup>1</sup>.

The Executive Leader and Deputy Leader were thanked for their report and for their attendance at the meeting.

Resolved: That the report be noted.

Reason: To ensure that the committee is kept updated on progress.

Action Required

1. Arrange for information to be provided for committee

JL

**24. Schedule of Petitions**

Members considered a report which provided details of new petitions received to date, together with those considered by the Executive or relevant Executive Member/Officer since the last report to the committee.

Members were asked to consider the petitions received and actions reported, and agree an appropriate course of action in each case.

As requested by the committee, the report also included an update on the petitions to Ban Lettings Boards (Annex B to the report). Members agreed that no further updates were required on the action being taken in response to this petition.

Resolved: (i) That the petitions received and actions



reported, as detailed in paragraph 5 of the report and at Annex A be noted.

- (ii) That the update in respect of Lettings Boards (Annex B of the report) be noted.

Reason: To ensure the committee carries out its responsibilities in relation to petitions.

## **25. 2016/17 Finance and Performance Monitor 1**

Members considered a report which provided an early analysis on finance and performance for the services falling within the remit of the Corporate and Scrutiny Management Policy and Scrutiny Committee, which included all corporate, strategic and business services.

Members noted that, as requested by the committee, the report now incorporated data on procurement. The benchmarking information on procurement was, however, produced on an annual basis only.

Resolved: That the report be noted.

Reason: To update the committee on the forecast position for 2016/17.

## **26. One Planet York Scoping Report**

Members considered a report which provided information as to how York might best balance economic, social and environmental factors to realise its goal of being a more sustainable and resilient “One Planet” city. The committee was asked to consider whether there would be added value in undertaking a scrutiny review to support the work of One Planet York.

Officers drew Members’ attention to paragraphs 10 and 11 of the report, which suggested specific topic areas on which the review could focus and a suggested approach to the work.

Members welcomed the proposed approach and agreed that a scrutiny review could usefully support the work that officers were carrying out. Officers were thanked for their informative report.

- Resolved: (i) That a Task Group be establish to carry out a scrutiny review to support the work of One Planet York.
- (ii) That the members of the Task Group be: Councillor Crisp, Councillor D'Agorne, Councillor Fenton or Councillor Reid and a representative of the Conservative Group.

## 27. Peer Challenge Review Scoping Report

Members considered a report which presented information around the implementation of the recommendations arising from the LGA Peer Challenge (March 2016), together with details of the 2013 Peer Challenge and a further 2014 review into Member behaviour following a motion to Full Council. The report had been requested by the committee at their meeting in June 2016.

A peer review action plan was tabled for information *[following the meeting this was added to the online agenda papers]*.

Members' attention was drawn to the resolutions from the Executive meeting of 14 July 2016, as detailed in paragraph 13 of the report. It was noted that the Council's quarterly performance reports would include an update on the progress in implementing the Peer Review Action Plan 2016.

Members were asked to consider:

- (i) Whether they wished to undertake further work into either monitoring implementation of peer review action plans or reviewing any outstanding actions or themes identified in the report; and
- (ii) What specific further work they wished to scope or identify;
- (iii) How they wished to undertake any such further work.

Members agreed that it would be appropriate for the committee to monitor progress on the implementation of the Action Plan through consideration and comment on the quarterly performance monitoring reports. They requested that the performance data include clearly defined actions and

timescales. Their comments and suggestions would be forwarded to the Executive.

Resolved: That the committee would monitor the implementation of the Peer Review Action Plan 2016 through consideration of the quarterly performance monitoring reports.

Reason: To be assured that action plans are implemented and proper progress is made in relation to peer review findings.

## **28. Work Plan 2016-17**

Members were asked to give consideration to the committee's work plan for 2016-17.

Resolved: That the work plan be approved subject to the following addition:

- Scoping report on S106 agreements (to be presented at meeting on 7 November 2016 if possible)

Reason: To ensure that the committee has a planned programme of work in place.

### **Chair's Comments**

Councillor Levene informed Members that he would be standing down as Chair of Corporate and Scrutiny Management Policy and Scrutiny Committee but would continue to serve as a member of the committee.

Chair

[The meeting started at 5.30 pm and finished at 7.20 pm].

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**Corporate & Scrutiny Management Policy & Scrutiny Committee****7 November 2016**

Report of the Assistant Director Legal and Governance

**Schedule of Petitions****Summary**

1. Members of this Committee are aware of their role in the initial consideration of petitions received by the Authority. The current petitions process was considered by the Audit and Governance Committee on 2 October 2014 and endorsed by Council on 9 October 2014. This process aims to ensure scrutiny of the actions taken in relation to petitions received either by Members or Officers.

**Background**

2. Following agreement of the above petitions process, Members of the Corporate and Scrutiny Management Policy and Scrutiny Committee had been considering a full schedule of petitions received at each meeting, commenting on actions taken by the Executive Member or Officer, or awaiting decisions to be taken at future Executive Member Decision Sessions.
3. However, in order to simplify this process Members agreed, at their June 2015 meeting, that the petitions annex should in future be provided in a reduced format in order to make the information relevant and manageable. At that meeting it was agreed that future petitions reports should include an annex of current petitions and agreed actions, but only following consideration of the petitions by the Executive or relevant Executive Member or Officer.
4. This was agreed, in the knowledge that the full petitions schedule was publicly available on the Council's website and that it was updated and republished after each meeting of the Committee.  
<http://democracy.york.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13020&path=0>

## 5. **Current Petitions Update**

A copy of the reduced petitions schedule is now attached at Annex A of the report which provides a list of new petitions received to date together with details of those considered by the Executive or relevant Executive Member/Officer since the last meeting of the Committee. Further information relating to petitions which have been considered by the Executive Members/Officers since the last meeting are set out below:

### **Petition Number**

#### **52. Lighting on Walmgate Stray**

This e-petition ran on the Council's website between 27 May and 7 July 2016, during that time it received 33 signatories. The petition had raised issues around the lack of lighting on the paths and the risks to users when travelling across Walmgate Stray in the dark.

The Executive Member for Transport and Planning considered an Officer report on this issue, at his Decision Session on 8 September 2016. Officers had confirmed that concerns over the lack of lighting on Walmgate Stray had previously been raised and, like other similar areas in the city, the stray had historically not been lit.

The Executive Member noted that the cost of providing lighting would be prohibitive, given the current lack of power supply and the cost of the lighting columns. He also noted that consideration had previously been given to the provision of lighting, during the Cycling City Project, and that no satisfactory, affordable solution which improved safety for users of the path had been found, without having a negative impact on conservation and wildlife. At that time there had also been no support from stakeholders, including the Police and the matter had not been progressed further, particularly as the Police considered that there were safer alternative routes.

In view of the issues raised in the Officers report, the Executive Member noted the petition and agreed that the safety concerns raised should be referred to the Student Community Partnership.

**55. Work to improve the condition of footpaths in the Front Street shopping area of Acomb**

**57. Improve the pavements around Foxwood shops**

These petitions were presented at the Council meeting held on 21 July, the first number 55, by Cllr Hunter which contained 822 signatories and requested the Council to undertake work to improve the condition of the footpaths in the Front Street shopping area of Acomb. The second, number 57, containing 80 signatures, was submitted by Cllr Jackson, and requested improvements to the pavements around the Foxwood shops to make the area safer and more attractive.

Both petitions were considered at an Executive Member for Transport and Planning Decision Session on 13 October 2016. An Officer report confirmed that both Acomb Front Street and Foxwood Lane were inspected by Highway Inspectors monthly to identify any safety defects and that annual condition surveys were also undertaken. The two areas were however revisited, in response to the petitions, and although there were concerns raised regarding the visual appearance and amenity of the two areas, Officers felt that there were no significant areas where further highway maintenance funding could be targeted using the Council's adopted intervention methodology.

The Executive Member noted that further improvements would require significant works to reinvigorate the two areas; with initial estimates in the region of £0.5M for Acomb Front Street and £125k for Foxwood. There was also the additional complication in both locations that an additional financial burden would fall to the frontagers who would be expected to contribute significant sums to facilitate improvements of the adopted and unadopted areas.

In view of these investigations, and to ensure that Council budgets were used effectively, the Executive Member agreed to note the petitions and agreed that a highway maintenance led approach was not the appropriate policy approach to achieve the expectations of the two petitions. He therefore approved the undertaking of further work to appraise the possibilities for a wider renewal and reinvigoration scheme for both locations and requested preparation of a report for the Executive Member for Economic Development and Community Engagement.

**60. Site ST9: Land North of Haxby**

This petition, objecting to the inclusion of site ST9 - land north of Haxby in the draft Local Plan, was received by the Council on 12 September 2016 and signed by 315 local residents.

As with any representations received in connection with the Local Plan this was forwarded to the Forward Planning Team for their consideration. Officers confirmed that when the Local Plan is submitted to the Secretary of State for examination, one of the documents submitted alongside the plan would be a statement of consultation. Any petitions received to the Plan process, including this objection to the inclusion of a site, would be incorporated within the document to which Executive and Full Council would have final sign off, prior to the Plan being sent to government.

**6. The Process**

There are a number of options available to the Committee as set out in paragraph 7 below, however these are not exhaustive. Every petition is, of course, unique, and it may be that Members feel a different course of action from the standard is necessary.

**Options**

7. Having considered the reduced Schedule attached which provides details of petitions received and considered by the Executive/Executive Member since the last meeting of the Committee; Members have a number of options in relation to those petitions:
- Request a fuller report, if applicable, for instance when a petition has received substantial support;
  - Note receipt of the petition and the proposed action;
  - Ask the relevant decision maker or the appropriate Executive Member to attend the Committee to answer questions in relation to it;
  - Undertake a detailed scrutiny review, gathering evidence and making recommendations to the decision maker;



- Refer the matter to Full Council where its significance requires a debate;

If Members feel that appropriate action has already been taken or is planned, then no further consideration by scrutiny may be necessary.

8. Following this meeting, the lead petitioner in each case will be kept informed of this Committee's consideration of their petition, including any further action Members may decide to take.

### **Consultation**

9. All Groups were consulted on the process of considering more appropriate ways in which the Council deal with and respond to petitions, resulting in the current process. Relevant Directorates are involved and have been consulted on the handling of the petitions outlined in Annex A.

### **Implications**

10. There are no known legal, financial, human resource or other implications directly associated with the recommendations in this report. However, depending upon what, if any, further actions Members agree to there may, of course, be specific implications for resources which would need to be addressed.

### **Risk Management**

11. There are no known risk implications associated with the recommendations in this report. Members should, however, assess the reputational risk by ensuring appropriate and detailed consideration is given to petitions from the public.

### **Recommendations**

12. Members are asked to consider the petitions received and actions reported, as set out in paragraph 5 above and on the attached Schedule at Annex A, and agree an appropriate course of action in each case.

Reason: To ensure the Committee carries out its requirements in relation to petitions.

**Contact Details**

**Author:**

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Democracy Officer  
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**Chief Officer Responsible for the report:**

Andrew Docherty  
AD Legal and Governance

**Report  
Approved**



**Date** 28 October 2016

Wards Affected:

All



**Background Papers:** None

**Annexes:**

Annex A – Extract from schedule of petitions received and action taken to date

Petition Details	Petition Type	No of Signatures (Approx)	Responsible Officer	Decision maker (e.g. Cabinet Member, Director)	Date of Consideration	Action Agreed	Date of Consideration by CSMPSC & Outcome
<p><b>52. Lighting on Walmgate Stray</b> – request for lighting on the footpaths through Walmgate Stray, particularly for the safety of students at night and following recent events.</p>	<p>E-Petition running 27-05-16 to 07-07-16</p>	<p>33</p>	<p>Neil Ferris Director of City &amp; Environmental Services T: 01904 551448  Officer: Steve Wragg</p>	<p>Executive Member for Transport &amp; Planning Decision Session</p>	<p>Executive Member for Transport &amp; Planning Decision Session  8-09-16</p>	<p>The Executive Member agreed to note the petition and referred the safety concerns expressed in the petition to the appropriate partnership forums.  Reason: To consider an appropriate response to the concerns whilst ensuring that street lighting budgets are used effectively and works are not carried out that would deliver wider negative impact.</p>	
<p><b>55. Work to improve the condition of footpaths in the Front Street shopping area of Acomb</b></p>	<p>Handed over at Full Council by Cllr Hunter 21-07-16</p>	<p>822</p>	<p>Neil Ferris Director of City &amp; Environmental Services T: 01904 551448  Officer: Steve Wragg</p>	<p>Executive Member for Transport &amp; Planning Decision Session</p>	<p>Executive Member for Transport &amp; Planning Decision Session  13-10-16</p>	<p>The Executive Member agreed to note the petitions and confirmed that a highway maintenance led approach was not the appropriate policy approach to achieve the expectations of the two petitions.  He therefore recommended that</p>	

Petition Details	Petition Type	No of Signatures (Approx)	Responsible Officer	Decision maker (e.g. Cabinet Member, Director)	Date of Consideration	Action Agreed	Date of Consideration by CSMPSC & Outcome
						<p>further work should be carried out to appraise the possibilities for a wider renewal and reinvigoration scheme for both locations and a report prepared for the Executive Member for Economic Development and Community Engagement (Deputy Leader).</p> <p>Reason: To ensure that the concerns of the petitioners are addressed and council budgets are used effectively to contribute to the development of community improvements.</p>	
<p><b>57. Improve the pavements around Foxwood shops</b> and make the area safer and more attractive.</p>	<p>Handed over at Full Council by Cllr Jackson 21-07-16</p>	<p>80</p>	<p>Neil Ferris Director of City &amp; Environmental Services T: 01904 551448</p> <p>Officer: Steve Wragg</p>	<p>Executive Member for Transport &amp; Planning Decision Session</p>	<p>Executive Member for Transport &amp; Planning Decision Session</p> <p>13-10-16</p>	<p>(See Petition 55 above)</p>	

Petition Details	Petition Type	No of Signatures (Approx)	Responsible Officer	Decision maker (e.g. Cabinet Member, Director)	Date of Consideration	Action Agreed	Date of Consideration by CSMPSC & Outcome
<p><b>58. Ownership of Property and Land in York Plans</b> When proposals for the development of land and/or property are made in York, we petition the council to publish the identities of the owners and beneficial owners when the enhanced value given by the grant of planning permission is estimated to exceed one million pounds. For such proposals, estimates of the value of the granted planning permission should be published and the dates at which the ownership and beneficial ownership commenced or when options were purchased.</p>	<p>ePetition running 8.8.16 to 29.9.16</p>	<p>14</p>	<p>Martin Grainger Head of Integrated Strategy T: 01904 551317</p>	<p>Executive Leader for Housing &amp; Safer Neighbourhoods  and  Executive Member for Economic Development &amp; Community Engagement (Deputy Leader)</p>	<p>TBC</p>		
<p><b>59. "A-Frame" advertising boards</b> – urge the Council to amend the proposed ban on advertising boards to ensure that it only prevents the placemen of hazardous boards, or</p>	<p>Handed in at Executive 25-08-16 by Sean Gill of Og Games</p>	<p>Approx 350</p>	<p>Neil Ferris Director of City &amp; Environmental Services T: 01904 551448  Officer: Richard Bogg</p>	<p>Executive Member for Transport &amp; Planning</p>	<p>Executive Member for Transport &amp; Planning  Decision Session</p>		

Petition Details	Petition Type	No of Signatures (Approx)	Responsible Officer	Decision maker (e.g. Cabinet Member, Director)	Date of Consideration	Action Agreed	Date of Consideration by CSMPSC & Outcome
boards in cluttered or unsafe locations.					10-11-16		
<b>60. Site ST9: Land North of Haxby</b> – objection to the inclusion of the site in the draft Local Plan	Hard copy presented to Council,  12/09/2016	315	Martin Grainger, Head of Planning and Environmental Management  T:01904 551317	When the Local Plan is submitted to the Secretary of State for examination one of the documents submitted alongside the plan will be a statement of consultation. Any petitions received to the Plan process will be included within this document to which Cabinet and Full Council will have final sign off, prior to the Plan being sent to government.	TBC		TBC

Petition Details	Petition Type	No of Signatures (Approx)	Responsible Officer	Decision maker (e.g. Cabinet Member, Director)	Date of Consideration	Action Agreed	Date of Consideration by CSMPSC & Outcome
<p><b>61. St Peter's Quarter: Parking</b> – requesting the City of York Council to engage in consultation with the residents of St Peter's Quarter in the selection of appropriate parking measures, including residents priority parking, for the developments roads</p>	<p>Hard Copy presented to Cllr Cannon and Sue Gill on 6-10-16</p>	<p>116 Equates to 107 properties</p>	<p>Alistair Briggs Traffic Network Manager T: 01904 551368</p>	<p>Executive Member for Transport and Planning</p>	<p>Executive Member for Transport &amp; Planning  Decision Session  10-11-16</p>		
<p><b>62. Save the Old Manor School Playing Fields for Acomb Residents</b> Acomb residents deserve more green open space. Request for CYC to open up part of the Old Manor School playing fields for use by the community, with money paid to the council from housing developers in the area to be used to develop leisure facilities <a href="http://www.change.org/p/city-of-york-council-save-the-old-manor-school-playing-fields-for-acomb-residents">www.change.org/p/city-of-york-council-save-the-old-manor-school-playing-fields-for-acomb-residents</a></p>	<p>Handed over at Full Council by Cllr Stuart Barnes 20-10-16</p>	<p>284 paper copy 262 online</p>					

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**Corporate & Scrutiny Management Policy & Scrutiny Committee****7 November 2016**

Report of the Assistant Director, Customer Services &amp; Digital

**Peer Review 2016 Action Plan****Summary**

1. At its last meeting, CSMPSC Members agreed that it would be appropriate for the committee to monitor progress on the *“implementation of the Action Plan through consideration, and comment on the quarterly performance monitoring reports”*. This report sets out a brief summary of progress to date with the Action Plan, ahead of the reporting being embedded into quarterly performance monitoring from Quarter 3.

**Background**

2. Full details of the peer challenge and resulting action plan can be found on the council’s website at the link below:

[https://www.york.gov.uk/info/20036/performance\\_and\\_policies/31/peer\\_challenge](https://www.york.gov.uk/info/20036/performance_and_policies/31/peer_challenge)

**Highlights of progress**

3. An updated copy of the action plan is attached (Annex A), showing headline progress against the ten key activities under the three themes *“Vision and Values – Thinking Differently”*; *“Delivering For and With the City – Acting Differently”* and *“Other Underpinning Actions”*. There has been significant progress with four of these activities complete, with the remaining six in progress or ongoing. Highlights in relation to each theme are set out below:

*Visions and Values – Thinking Differently*

4. The Council’s 2030 Vision was agreed by Executive in July. There has been substantial engagement with staff about the Vision and with

partners; the new Chief Executive has for example used the opportunity of introductory meetings with staff and partners to engage with them on the Vision. This work will be bolstered and enhanced when a new Head of Communications arrives in November.

5. The refreshed Performance Framework was agreed by Executive in July and first draft service plans are being developed for a December 2016 deadline. Progress towards implementing a refreshed planning & performance management framework has involved discussions and agreement between CMT and Executive of a core strategic basket of indicators to help monitor the council priorities which in turn will provide structure for future reporting; a refreshed and agreed Performance Framework at Executive embedding this within business as usual corporate procedures; further strategic and operational indicators added to KPI Machine helping strengthen the evidence base that is available to senior managers (and residents through the ward profiles); the KPI Machine being further rolled out to all staff in Adults, Housing & Children's, with access controlled appropriately; Talk-about satisfaction indicators being available to all senior managers to understand residents' perceptions.
6. Other plans making substantial progress include the York Economic Strategy, launched in July, and the Local Plan, with an update due at Executive in December. In addition, key corporate risks have been reviewed and Budget plans are in progress in line with the expected financial planning timetable and approach.

#### *Delivering For and With the City – Acting Differently*

7. Progress towards a listening council has involved; the re-engagement with front-line staff through regular joint meetings and visits being completed by the chief executive alongside the leaders of the council; the re-engagement by CMT and executive members with senior managers through CLG and Service to City Forums; the re-launch and configuration of the Talk-about panel in order to hear residents views on a six-monthly basis which in turn feeds in to the performance framework.
8. Progress towards programme and project management which aids key major decision points has involved, as part of the implementation of the All About Projects corporate framework, major and medium project information being held centrally; project management information

being made available within the councils performance framework and reported internally into CMT/Executive and Audit & Governance Committee, as well as externally alongside other performance information; portfolio holders and CMT leadership meeting to improve clarity on roles and responsibilities on governance and decision-making for current and future projects.

9. Progress towards proactive communication and a positive narrative has involved being transparent with our information in publishing over 800 datasets within the open data platform including transparency data which exceeds the standard publication scheme requirements; appointed a new head of communications following the restructure of the service; the chief executive engaging and listening to views with numerous city partners on the council vision; outline discussions on a refresh of community engagement strategy containing plans to have this completed by March 2017; achieving further customer service excellence accreditations as well as working with services to ensure improvements have been undertaken for further reassessment.
10. Progress towards working closer with communities directly as well as harnessing the positive elements of digital/social media has involved agreement by Executive of new Local Area Teams within Children's Services; continued internal work and planning towards the council making available the "My Account" functionality through the corporate website which will allow a constant two-way feedback with residents; work towards key account and stakeholder management has been completed by CMT/Executive involving identifying the councils top 50 key partners and allocating responsibility to these to a relevant CMT and Executive Member which includes a new approach to partnerships, based on One Planet York principles, to be initiated in November.

#### *Other Underpinning actions*

11. Peer development activity: since the arrival of the new Chief Executive there has been a focus on developing joint strategic leadership approaches both at CMT and CMT/Executive level; there has also been re-engagement with the supporting officer leadership through reinvigorated Council Leadership Group and Service to City Groups; the Senior Management Review is complete and the new structure, roles and responsibilities communicated to all staff and Members; the People Plan was agreed at Executive in July; ongoing work towards implementing the councils new CRM which will help provide a

mechanism for understanding and responding to social media and trend information; E-democracy task group feeding into future proposals; expanding the level of local information that communities are able to access through expanded ward profiles, with work planned to expand members knowledge and potential usage of these in December.

## **Future Reporting**

12. As set out above, as part of revised Performance Management arrangements, a “core strategic basket of indicators” is being developed to enable progress against Council Plan priorities, and key projects to be monitored. This will also include indicators aimed at providing an “Organisational Health-check”. Given the importance of delivering the Peer Review Action Plan, it is intended to include progress against this Action Plan in the Organisational Health-check subset of data.

## **Implications**

13. There are no direct implications associated with the recommendations of this report in relation to any of the following implications:

Financial

Human Resources (HR)

Equalities

Legal

Crime and Disorder

Information Technology (IT)

Property

## **Risk Management**

14. There are no known direct risk management implications associated with the recommendations in this report. However, there would be a significant reputational risk should this Scrutiny Committee not satisfy itself that the review findings and implementation of agreed action plans are proceeding at a proper pace.

## Recommendations

15. Members are asked to;

- (i) note progress to date; and
- (ii) note the intention to report progress in future through new quarterly strategic “Organisational Health-check” basket.

Reason:

To be assured that action plans are implemented and proper progress is made in relation to peer review findings.

## Contact Details

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Report Approved  Date 26/10/2016

Wards Affected:

All

For further information please contact the author of the report

## Background Papers:

Peer review link -

[https://www.york.gov.uk/info/20036/performance\\_and\\_policies/31/peer\\_challenge](https://www.york.gov.uk/info/20036/performance_and_policies/31/peer_challenge)

Executive Report July 2016 -

<http://democracy.york.gov.uk/ieListDocuments.aspx?CId=733&MIId=9303&Ver=4>

CSMPSC Agenda and Minutes September 2016 -

<http://democracy.york.gov.uk/ieListDocuments.aspx?CId=144&MIId=9422&Ver=4>

## **Annexes**

Annex A - Peer Review Action Plan – CSMPSC – October 2016

## **Abbreviations**

CLG – Corporate Leadership Group

CMT – Corporate Management Team

CRM – Customer Relational Management System

CSMPSC - Corporate & Scrutiny Management Policy & Scrutiny  
Committee

# Annex A - City of York Council - Peer Review Action Plan

Area	Activity	Outcome	What does success look like	Lead Officers	Status	Progress
Vision and Values Thinking Differently	Develop vision for the Council and the City	Clarity amongst residents and staff about why we do what we do and take the decisions we take. Develop new organisation values and behaviours based on vision	Promotion of the council plan as the main strategic document of the council. Residents have an understanding of the Council's vision for York. Develop values and revised behavioural standards based on vision and values feedback from staff and external partners	Chief Executive	Complete	The Council's 2030 Vision was agreed by Executive in July. There has been substantial engagement with staff about the Vision and with partners; the new Chief Executive has for example used the opportunity of introductory meetings with staff and partners to engage with them on the Vision. This work will be bolstered and enhanced when a new Head of Communications arrives in November.
	Produce key delivery plans Council Plan (supporting corporate plans and service plans) including management of key risks	Priorities within Council Plan are delivered and specified targets, outputs and outcomes are achieved. Associated key risks are identified, monitored and managed.	Key measures of success have a positive performance trend through the lifetime of the plan. Corporate risks appear alongside KPIs.	CMT	In progress	Plans making substantial progress include the York Economic Strategy, launched in July, and the Local Plan, with an update due at Executive in December. In addition the refreshed Performance Framework was agreed by Executive in July and first draft service plans are being developed for a December 2016 deadline.
	Implement refreshed planning & performance management framework	Line of sight is visible from individual plans to the vision. Plans have clear output measures and outcomes, performance against these is monitored through a structured reporting intended to drive improvement and achievement.	Key measures of success have a positive performance trend through the lifetime of the plan. Maximise openness and transparency by exceeding Publication Scheme requirements	Assistant Director, Customer Services and Digital	Complete	Further progress towards a implementing a refreshed planning & performance management framework has involved; discussions and agreement between CMT and Executive of a core strategic basket of indicators to help monitor the council priorities which in turn will provide structure for future reporting; a refreshed and agreed Performance Framework at Executive embedding this within business as usual corporate procedures; further strategic and operational indicators added to KPI Machine helping strengthen the evidence base that is available to senior managers (and residents through the ward profiles); the KPI Machine being further rolled out to all staff in Adults, Housing & Children's, with access controlled appropriately; Talk-about satisfaction indicators being available to all senior managers to understand residents' perceptions.
	Review budget planning process and known structural/financial challenges to deliver the 2030 vision of continued financial best practice	Effective financial planning and resource prioritisation is in place to deliver strategic plans. Innovation and excellence underpins resourcing solutions and decisions.	Key financial performance measures have a positive performance trend through the lifetime of the plan and appear alongside performance, employees and customer satisfaction data.	Director of Customer & Corporate Services	Ongoing	Key corporate risks have been reviewed and Budget plans are in progress in line with the expected financial planning timetable and approach.

# Annex A - City of York Council - Peer Review Action Plan

Area	Activity	Outcome	What does success look like	Lead Officers	Status	Progress
Delivering For & With the City Acting Differently	Developing a listening council approach	The council and delivery partners engage with, listen to and feed back to stakeholders as part of their organisational values and process design.	Officers and Members to be seen within communities working for communities and having the power to act where appropriate. Have a Feedback ethic – ‘you said we did’ to all stakeholders.	CMT	In progress	Progress towards a listening council has involved; the re-engagement with front-line staff through regular joint meetings and visits being completed by the chief executive alongside the leaders of the council; the re-engagement by CMT and executive members with senior managers through CLG and Service to City Forums; the re-launch and configuration of the Talk-about panel in order to hear residents views on a six-monthly basis which in turn feeds in to the performance framework.
	Agree key major decision points in the delivery of significant projects and in light of vision and major policy scanning particularly for: Local Plan; Community Stadium; York Central; Southern Gateway; Future Size and Shape Priorities; Devolution	All major projects are identified, prioritised, resourced and delivered effectively. The city and council has a reputation for managing change effectively to deliver economic and efficiency priorities for the city and the council.	Major Projects appear alongside business as usual activity in Service Plans. Major project KPIs are monitored through corporate and directorate performance framework	CMT	Complete	Progress towards programme and project management which aids key major decision points has involved, as part of the implementation of the All About Projects corporate framework; major and medium project information being held centrally; project management information being made available within the councils performance framework and reported internally into CMT/Executive and Audit & Governance Committee, as well as externally alongside other performance information; portfolio holders and CMT leadership meeting to improve clarity on roles and responsibilities on governance and decision-making for current and future projects.
	Proactive communications and relationships with media	There is a strong and positive narrative in relation to the council’s activities and its performance against its priorities. Issue management is planned wherever possible.	Restructure and re-design of communications function once in CBSS directorate	Assistant Director, Customer Services and Digital	Ongoing	Progress towards proactive communication and a positive narrative has involved; being transparent with our information in publishing over 200 new datasets within the open data platform, including transparency data which exceeds the standard publication scheme requirements; appointed a new head of communications following the restructure of the service; the chief executive engaging and listening to views with numerous city partners on the council vision; outline discussions on a refresh of community engagement strategy containing plans to have this completed by March 2017; achieving further customer service excellence accreditations as well as working with services to ensure improvements have been undertaken for further reassessment.



# Annex A - City of York Council - Peer Review Action Plan

Area	Activity	Outcome	What does success look like	Lead Officers	Status	Progress
Delivering For & With the City Acting Differently (continued)	Work closer with communities directly but also harnessing the positive elements of digital/social media to maximise impact of engagement/communication approaches	Communities and residents have formed a new relationship with the council which allows their views to be sought and understood in different ways	Current locality based projects are designed and launched in conjunction with relevant communities	Assistant Directors, Customer Services and Digital / Communities and Equalities	In progress	Progress towards working closer with communities directly as well as harnessing the positive elements of digital/social media has involved; agreement by Executive of new Local Area Teams within Children's Services; continued internal work and planning towards the council making available the "My Account" functionality through the corporate website which will allow a constant two-way feedback with residents; work towards key account and stakeholder management has been completed by CMT/Executive involving identifying the councils top 50 key partners and allocating responsibility to these to a relevant CMT and Executive Member which includes a new approach to partnerships, based on One Planet York principles, to be initiated in November.
Other Underpinning Actions	Peer development activity/team building support for CMT, Executive Members, Scrutiny Leads	Strong coherent leadership focussed on continuous development in delivering excellence.	Vision for 2030 is agreed. Lines of accountability established through service planning. Major projects are prioritised alongside Frontline Service Delivery	Chief Executive	Ongoing	Progress towards Peer development activity has involved; since the arrival of the new Chief Executive there has been a focus on developing joint strategic leadership approaches both at CMT and CMT/Executive level; there has also been re-engagement with the supporting officer leadership through reinvigorated Council Leadership Group and Service to City Groups.
	Early progress on Senior Management Review	Skills and capacity are in place to focus on priorities and driving forward promised delivery and change. Delivery of council priorities, values and behaviours is provided through effective leadership.	Completion of Senior Management Review	Chief Executive	Complete	Progress towards a senior management review has involved the completion of the new structure, roles and responsibilities communicated to all staff and Members.
	People Plan completion & approval as part of delivery planning framework .	Successful development of the skills, capacity and confidence of the workforce during a period of significant change and challenge.	People Plan is completed and approved	Chief Executive	Complete	Progress toward the People Plan has involved; the agreement of the people plan at Executive in July.
	Review engagement framework including maximising the use of E Democracy in order to integrate with digital and customer strategic principles across all channels of engagement.	Technologies allow a greater interaction with residents and other users on priorities that matter to them. The council is easier to do business with.	The improved CRM is launched during 2016/17 which provides opportunity for information capture on residents views and queries.	Assistant Directors, Customer Services and Digital / Communities and Equalities	In progress	Progress towards engagement framework has involved; ongoing work towards implementing the councils new CRM which will help provide a mechanism for understanding and responding to social media and trend information; E-democracy task group feeding into future proposals; expanding the level of local information that communities are able to access through expanded ward profiles, with work planned to expand members knowledge and potential usage of these in December.

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**Corporate & Scrutiny Management Policy & Scrutiny Committee****7 November 2016**

Report of the Assistant Director Planning and Public Protection

**Section 106 Planning Obligations****Summary**

1. This report presents Members with information around Section 106 arrangements and how they are administered.

**Background**

2. At a meeting of the Corporate and Scrutiny Management Policy & Scrutiny Committee (CSMPSC) in September 2016, a public participant made comments, during the public participation section asking Members of this Committee to look in detail at the enforcement of S106 agreements following a recent internal audit by Veritau.
3. Members resolved that a “scoping” report be brought before the CSMPSC to provide more information about S106 Obligations generally, how they are administered and controlled and how information about them is made available to the public.
4. To assist the Committee in considering whether it wishes to proceed with further scrutiny work in this area and if so in relation to which specific aspects, this report provides an overview of the legal context to S106 Planning obligations. Specifically, it sets out the procedures in place to prepare, register and monitor compliance in York, together with a summary of the recommendations already made by Veritau following their internal audit of the S106 processes, which are presently being implemented so that information is more easily accessible to the public via the Council website. Attached at Annex A is a copy of the Internal Audit Report.

### **What is a S106 contribution?**

5. Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), are a legal mechanism which can make a development proposal acceptable in planning terms, that would not otherwise be acceptable. They are focused on site specific mitigation of the impact of development. S106 obligations are often referred to as 'developer contributions'.
6. The planning obligation is a formal legal document, a deed, which states that it is an obligation for planning purposes, identifies the relevant land, the person entering the obligation and their interest and the relevant local authority that would enforce the obligation. The obligation must be secured by way of a deed, and can be either a unilateral undertaking or a multi party agreement. The obligation is registered as a local land charge.

### **What are they used for?**

7. The common uses of planning obligations are to secure financial contributions to provide infrastructure or affordable housing. However these are not the only uses for a S106 obligation.  
A s106 obligation can:

- restrict the development or use of the land in any specified way
- require specified operations or activities to be carried out in, on, under or over the land
- require the land to be used in any specified way; or
- require a sum or sums to be paid to the authority on a specified date or dates or periodically.

8. In York S106 contributions are mainly used to:
  - Mitigate the impact of the development on the highway network
  - Contribute to public transport
  - Mitigate the impact of the development on schools
  - Contribute to existing or new open spaces
  - Contribute to sports facilities
  - Provide affordable housing

## **Restrictions on the use of S106 planning obligations**

9. The legal tests as to when a S106 obligation is appropriate are set out in government guidance and regulation:

*Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.*

*Planning obligations should only be sought where they meet all of the following tests:*

- *necessary to make the development acceptable in planning terms*
  - *directly related to the development; and*
  - *fairly and reasonably related in scale and kind to the development."*
10. From April 2015 there are also restrictions on the “pooling “of planning obligations. Where there is no Community Infrastructure Levy (CIL) Charging Schedule in place, when determining planning applications, local authorities can no longer use a planning obligation as a reason to grant planning permission if there has been more than five s106 obligations entered into since March 2010 to pay for the single infrastructure project or type of infrastructure sought to make the development acceptable. The recent regulations are designed to urge local authorities to adopt the Community Infrastructure Levy (CIL).

## **Community Infrastructure Levy (CIL) and s106 planning obligations**

11. A CIL Charging Schedule would provide for a fixed amount to be paid by Developers based upon a charge per m<sup>2</sup>, to be used towards infrastructure identified in the Infrastructure Delivery Plan and aligned with the Local Plan. This would be instead of section 106 contributions from developers being pooled towards infrastructure. To be able to adopt this in York, the Local Plan needs to be in place so that the required infrastructure projects are identified within the associated Infrastructure Delivery Plan. There is

a requirement to consult on any proposed CIL Charging Schedule and have an independent public examination to demonstrate, inter alia, viability before adoption.

12. The reason that CIL is charged per square metre of floorspace, according to rates set by councils is that the government considers that raising money in this way is fairer and more transparent than through Section 106, which is often negotiated on a case-by-case basis.
13. Once a CIL is in place, that Local Authority would no longer be able to collect generic contributions through S106 under terms such as "open space", "education" or "transport", where these are identified as Infrastructure that is covered by CIL, as this would constitute double counting.
14. Instead, where CIL is in place, any S106 Obligations would only be in addition to the CIL payment where the Infrastructure required is not included in the CIL Schedule and the Obligations are "necessary to make a development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development." (An example would be affordable housing provision, which is not covered by CIL).

### **The administration of S106 planning obligations**

15. Anticipated S106 obligation requirements are identified (where appropriate) in formal pre-application advice provided to individuals and developers.
16. S106 planning obligations are the subject of discussion with applicants/ agents during the assessment of a significant number of planning applications. Service departments will at this stage identify or confirm s106 requirements as appropriate. Assessment of viability and deliverability may be undertaken if relevant at this time.
17. The Development Management case officer identifies s106 requirements in the planning report on an application, so that the heads of terms required are clear at the decision making stage. If an application is approved, subject to a S106 agreement, CYC Planning solicitors will be instructed to draft and agree the detailed wording of the Deed with the Applicant's solicitors to secure the necessary planning obligations that were identified in the Committee resolution. On completion of the S106, the Deed is registered as a land charge and scanned onto the public

access system that forms the Planning Register. This is available through the Council's website.

18. The terms of S106 Agreements/Undertakings will usually contain "trigger points" requiring either payment or another action by the developer (e.g. provide a children's play area on a site after "x" number of houses have been built). The Planning Enforcement officers monitor the implementation of planning permissions to check that where trigger points are reached, payments are being made. Upon receipt of the agreed payment to the council Finance team the relevant / directorate/ service is notified of the income and is obligated to spend this as detailed in the S106 agreement.
19. Both the Finance team and Planning Enforcement officers record the S106 requirements, triggers for payments or other actions. Directorates / services receiving payments are required to confirm both when and how the money is spent.

### **Enforcement of S106 Obligations**

20. In the rare event that a payment is not made, or an Obligation is otherwise breached, the Council will in the first instance write to the Developer and request payment. It is very rare that payments are not made, as the S106 creates a contractual obligation to make the payment, and any breach gives rise to reputational damage for the developer.
21. However, continued failure to make the payment could result in the Council having to take formal Court action to obtain an injunction. It is also open to the Council to take direct action and enter the land to carry out any required obligation and recover any expenses reasonably incurred in doing so from the person against whom the obligation is enforceable. Such matters will be assessed on a case by case basis, taking specialist legal advice in determining the appropriate and proportionate action.

### **Veritau Recommendations and Work Programme**

22. The recent Veritau Audit of S106 Obligations recommended a number of changes in relation to their administration. These were reported to Audit & Governance Committee on 22 June 2016. The Section 106 checklist, which will be used to monitor progress with Section 106 agreements, is being revised to ensure obligations are compliant with the CIL Regulations. A work programme is being

developed in liaison with the Economic Development Intelligence Hub to implement the recommendations. Information referred to at 18 and 19 above is also being published on the CYC website in an 'Excel' spreadsheet, which can be sorted by Ward. This will publicly demonstrate where S106 obligations have been met by the developer/ landowner and where the required infrastructure and/ or community facilities have subsequently been delivered.

### **Council Plan**

23. This Report relates to A Prosperous City for All and A Council That Listens to Residents elements of the Council Plan

### **Options**

24. Members can choose to:
- (i) Note the information received in this report, including the recommended actions of the Internal Audit Report and proceed no further;
  - (ii) Consider whether they wish to undertake any further scrutiny work around this area and specifically in relation to what.

### **Implications**

25. There are no direct implications associated with the recommendations of this report in relation to any of the following implications:
- Financial (other than potential staff resource costs to undertake any review)
  - Equalities
  - Legal
  - Crime and Disorder
  - Information Technology (IT)
  - Property

### **Risk Management**

26. There are no known direct risk management implications associated with the recommendations in this report.



## Recommendations

27. Members are asked to

- (i) note the information contained in this report, together with the Internal Audit Report and the actions to be implemented by officers in response;
- (ii) agree whether the issues identified in this report warrant any further scrutiny involvement and if so specify which issues require further scoping;

Reason: To determine whether further scrutiny is required in relation to Section 106 Agreements

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Report Approved  Date 27/10/2016

Wards Affected:

All

**For further information please contact the author of the report**

## Annexes

Annex 1 – Veritau Internal Audit Report 2015/16 – Section 106 Agreements

## Abbreviations

CIL – Community Infrastructure Levy  
CSMPSC – Corporate & Scrutiny Management Policy & Scrutiny Committee  
CYC – City of York Council

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# Section 106 agreements

## City of York Council

### Internal Audit Report 2015/16

Business Unit: City and Environmental Services

Responsible Officer: Assistant Director – Development Services, Planning & Regeneration

Service Manager: Head of Development & Regeneration

Date Issued: 03/06/2016

Status: Final

Reference: 10510/003

	P1	P2	P3
<b>Actions</b>	<b>0</b>	<b>4</b>	<b>0</b>
<b>Overall Audit Opinion</b>	Reasonable Assurance		

# Summary and Overall Conclusions

## Introduction

Section 106 of the Town and Country Planning Act 1990 relates to agreements regulating the development or use of land.

Agreements under Section 106 are legally-binding and require that provisions be made at the landowner's expense for schools, community centres, open spaces or civil engineering works in connection with the granting of planning permission for development of any size or type.

Upon receipt of the agreed fee from the landowner, the responsible department is notified of the income and is obligated to spend this as detailed within the agreement. With increasing scrutiny on corporate transparency it is becoming ever more important that the council is able to demonstrate the appropriateness of its expenditure.

## Objectives and Scope of the Audit

The purpose of this audit was to provide assurance to management that procedures and controls within the system ensure that:

- Section 106 agreements are drawn up as per the heads of terms contained within either the planning officer's report to Committee/Committee minute or the report for a delegated decision
- Accounting records are maintained and retained to support all transactions
- Section 106 funds are only used for the purposes outlined within the agreements

The audit included a review of Section 106 agreements in place since 2012. Arrangements for the monitoring of payments and repayments were not reviewed during this audit. This will now be covered in the 2015-16 Development Management audit which commenced in March 2016.

## Key Findings

The main emphasis of audit testing was on ensuring that the final legal deeds drawn up by the council reflected the contributions agreed as part of the planning decision. Only immaterial errors were observed and these occurred in the supporting documents concerning the preparation of the Section 106 agreements. There were no instances in which these errors affected the deeds themselves, in which case there would be reason to suspect that the council has not shown due diligence in their preparation. Other minor errors observed related to the availability of updated documents that would have clarified the financial contributions within the final agreement.

As Section 106 agreements require cross-directorate involvement, it is essential that all parties are kept informed of the progress and status of the agreements. No clear framework was found during the audit to provide assurance that the final deed, as sealed by the council, reflects the specific requirements of all departments involved.

Audit testing of the suitability of accounting records maintained by the council revealed that there is not a central register of all Section 106 agreements entered into by the council. Finance does, however, maintain a monitoring spreadsheet for all Section 106 financial contributions. This spreadsheet was found to be complete, with receipt of all contributions from developers recorded having been recently reconciled to the financial ledger. Maintaining and updating this spreadsheet relies on information being received from Development Management.

No issues were found with the appropriateness of expenditure within the receiving departments. The monitors within departments that were available recorded receipt of monies and matched, in most cases, the central Finance spreadsheet. Whilst discrepancies were found there was nothing to suggest that there is a systematic issue with transferral of contributions to departments and the recognition of receipt of income. However, consideration should be given to the fact that covenants tend towards greater specificity in the more recent agreements (particularly for contributions to transport) and a lack of ongoing monitoring may result in difficulties when accounting for expenditure.

## **Overall Conclusions**

It was found that the arrangements for managing risk were satisfactory with a number of weaknesses identified. An acceptable control environment is in operation but there are a number of improvements that could be made. Our overall opinion of the controls within the system at the time of the audit was that they provided Reasonable Assurance.

# 1 Framework for monitoring Section 106 agreement progress

Issue/Control Weakness	Risk
<p>There is no framework to ensure that the progress of Section 106 agreements is monitored.</p>	<p>Section 106 agreements are finalised without containing all contributions required by departments.</p> <p>Unnecessary delays in the preparation and finalisation of the deed.</p>

## Findings

Preparation of the deed requires effective communication across directorates. Key stages in this communication involve departments providing instruction to Legal Services on the contributions required as part of the agreement and obtaining subsequent approval of the deed from these departments before it is finalised.

While reviewing documentation on Uniform to ensure that Section 106 agreements are drawn up as per the contributions contained within the planning decision it was noted that there was no framework in place to facilitate monitoring of the progress of each agreement. For older agreements, a pro forma checklist had been completed (though not fully) in some cases but this had not been used to monitor progress for more recent agreements.

## Agreed Action 1.1

The Section 106 agreement checklist will be revised as necessary to ensure that obligations sought comply with the CIL Regulations and the checklist will be used to monitor the progress of all Section 106 agreements across departments.

The Planning officer will inform the Economic Development Intelligence Hub of the facilities/contributions being sought to enable it to also seek, wherever possible, to leverage funding from bodies such as Local Enterprise Partnerships in order to maximise the economic benefit of the development.

The new arrangement will also make provision for closer monitoring of the delivery of projects funded through Section 106 contributions to ensure that all expenditure is in accordance with the provisions of the Section 106 agreement.

<b>Priority</b>	2
<b>Responsible Officer</b>	Director of City and Environmental Services
<b>Timescale</b>	31 October 2016

### Agreed Action 1.2

Once the appropriate and CIL compliant contributions have been identified by the Planning officer, the Economic Development Intelligence Hub will assess the viability of development schemes in cases where viability is an issue. Where an assessment has to be made as to whether priority should be given to one requirement over another, whether the requirements are scaled down, or whether Planning permission should be refused, this will be made by the Planning department taking into account the particular circumstances of the case and relevant planning policy/guidance.

**Priority**

2

**Responsible Officer**

Director of City and Environmental Services

**Timescale**

31 May 2017

### Agreed Action 1.3

A full review of the implementation of this new process in the negotiation and monitoring of Section 106 agreements will be undertaken to establish progress made and lessons to be learned.

**Priority**

2

**Responsible Officer**

Director of City and Environmental Services

**Timescale**

31 November 2017

## 2 Register of Section 106 agreements

### Issue/Control Weakness

There is no definitive list of all Section 106 agreements that the council has entered into.

### Risk

At any point in time the council cannot confirm the number of Section 106 agreements it has entered into, leading to a lack of transparency.

The spreadsheet maintained by Finance records only those agreements with financial obligations meaning that non-financial obligations are not actively monitored.

### Findings

During audit testing it was found that no overall record of all Section 106 agreements (i.e. those with financial and only non-financial obligations) entered into by the council is maintained. Finance does update and maintain a central spreadsheet of all financial contributions but it does not include those Section 106 agreements which contain only non-financial obligations. Audit testing was, therefore, limited to those agreements requiring financial contributions. Uniform should have the capacity to report this information but the auditor was advised that it is not possible to retrieve a complete list of agreements processed by the system.

Currently, the Finance spreadsheet acts as the central agreement register. However, this record should be provided by – or at least reconciled to – the source application to ensure that all Section 106 agreements are captured and so that the completeness and accuracy of the Finance spreadsheet can be independently validated.

### Agreed Action 2.1

As part of the new processes to be introduced in the negotiation and monitoring of Section 106 agreements, a central register of the agreements will be maintained of all financial and non-financial agreements.

**Priority**

2

**Responsible Officer**

Head of Development & Regeneration

**Timescale**

31 October 2016



# Audit Opinions and Priorities for Actions

## Audit Opinions

Audit work is based on sampling transactions to test the operation of systems. It cannot guarantee the elimination of fraud or error. Our opinion is based on the risks we identify at the time of the audit.

Our overall audit opinion is based on 5 grades of opinion, as set out below.

Opinion	Assessment of internal control
High Assurance	Overall, very good management of risk. An effective control environment appears to be in operation.
Substantial Assurance	Overall, good management of risk with few weaknesses identified. An effective control environment is in operation but there is scope for further improvement in the areas identified.
Reasonable Assurance	Overall, satisfactory management of risk with a number of weaknesses identified. An acceptable control environment is in operation but there are a number of improvements that could be made.
Limited Assurance	Overall, poor management of risk with significant control weaknesses in key areas and major improvements required before an effective control environment will be in operation.
No Assurance	Overall, there is a fundamental failure in control and risks are not being effectively managed. A number of key areas require substantial improvement to protect the system from error and abuse.

## Priorities for Actions

Priority 1	A fundamental system weakness, which presents unacceptable risk to the system objectives and requires urgent attention by management.
Priority 2	A significant system weakness, whose impact or frequency presents risks to the system objectives, which needs to be addressed by management.
Priority 3	The system objectives are not exposed to significant risk, but the issue merits attention by management.

Where information resulting from audit work is made public or is provided to a third party by the client or by Veritau then this must be done on the understanding that any third party will rely on the information at its own risk. Veritau will not owe a duty of care or assume any responsibility towards anyone other than the client in relation to the information supplied. Equally, no third party may assert any rights or bring any claims against Veritau in connection with the information. Where information is provided to a named third party, the third party will keep the information confidential.

## Corporate & Scrutiny Management Policy & Scrutiny Committee Work Plan 2016-17

Meeting dates @ 5.30pm	Corporate & Scrutiny Management Policy & Scrutiny Committee Work Plan 2016-17
13 June 2016	<ol style="list-style-type: none"> <li>1. Attendance of Executive Leader and Deputy Leader to outline Priorities and Challenges for 2016-17</li> <li>2. Schedule of Petitions</li> <li>3. Pre-decision report – Guildhall Project</li> <li>4. Annual Scrutiny Report</li> <li>5. Ideas for topics for review in this Municipal Year including potential review of elements of the TTIP motion to support the work of One Planet York.</li> <li>6. Work Plan 2016-17</li> </ol>
25 July 2016	<ol style="list-style-type: none"> <li>1. Attendance of the Executive Member for Finance and Performance</li> <li>2. Schedule of Petitions</li> <li>3. End of Year Finance &amp; Performance Monitoring Report</li> <li>4. Overview report on electoral organisation</li> <li>5. Update report on procurement activity</li> <li>6. Future Ways of Working in Scrutiny – update/review and financial implications</li> <li>7. Work Plan 2016-17</li> </ol>
5 Sept 2016	<ol style="list-style-type: none"> <li>1. Attendance of Executive Leader and Deputy Leader to update on Priorities and Challenges for 2016-17</li> <li>2. Schedule of Petitions</li> <li>3. 1<sup>st</sup> Qtr Finance &amp; Performance Monitoring Report</li> <li>4. Scoping Report on potential scrutiny review around One Planet York.</li> <li>5. Scoping report on potential scrutiny review around Peer Challenge review</li> <li>6. Work Plan 2016-17</li> </ol>

7 Nov 2016	<ol style="list-style-type: none"> <li>1. Schedule of Petitions</li> <li>2. Update report on Peer Review Action Plan.</li> <li>3. Briefing paper on administration of Section 106 agreements</li> <li>4. Work Plan 2016-17</li> </ol>
16 Jan 2017	<ol style="list-style-type: none"> <li>1. Schedule of Petitions</li> <li>2. 2<sup>nd</sup> Qtr Finance &amp; Performance Monitoring Report</li> <li>3. Scrutiny Review Support Budget</li> <li>4. Future Ways of Working In Scrutiny.</li> <li>5. Work Plan 2016-17</li> </ol>
6 March 2017	<ol style="list-style-type: none"> <li>1. Schedule of Petitions</li> <li>2. 3<sup>rd</sup> Qtr Finance &amp; Performance Monitoring report</li> <li>3. Work Plan 2016-17</li> </ol>
8 May 2017	<ol style="list-style-type: none"> <li>1. Schedule of Petitions</li> <li>2. Draft Work Plan 2017-18</li> </ol>