

**Minutes of the Overview and Scrutiny Committee
21 January 2020**

Present:

Councillor V.J. Leighton (Chairman)

Councillors:

J.H.J. Doerfel

T. Fidler

L. E. Nichols

J.T.F. Doran

N.J. Gething

R.J. Noble

R.D. Dunn

M. Gibson

Apologies: Councillors C.F. Barnard, C.L. Barratt and R.A. Smith-Ainsley

7/20 Election of Vice-Chairman

It was proposed by Councillor V.J. Leighton and seconded by Councillor R.J. Noble and agreed that Councillor N.J. Gething be appointed Vice Chairman for the remainder of the municipal year.

8/20 Minutes

The minutes of the meeting held on 26 November 2019 were approved as a correct record.

9/20 Disclosures of Interest

There were none.

10/20 Call-in of Cabinet decisions

No Cabinet decisions have been called in.

11/20 Cabinet Forward Plan

The Cabinet Forward Plan was noted.

12/20 Treasury Management half yearly report 2019/20

Members of the Committee had been requested to submit questions regarding the Treasury Management half-yearly report for 2019-20 in advance of the meeting. The questions and responses were circulated in advance of the meeting and are attached to these minutes.

It was requested that the timing of financial reports are considered when planning the programme of meetings in order that the reports are brought before the Committee within an appropriate timescale.

It was agreed to provide further detail in writing to the Committee after the meeting regarding:

1. The movement in long and short term borrowing shown in Table 2 of the report.
2. Information about how Knowle Green Estates Ltd investment would appear in the capital expenditure summary (Table 1 of the report).

The Chief Finance Officer offered to discuss separately individual concerns about the methodology used to calculate the dividend yield.

Resolved to note the report, subject to some concern about the values in the report. The Chief Finance Officer will report back to the Committee on the above points.

13/20 Houses in Multiple Occupation

The Committee received a report concerning Houses in Multiple Occupation (HMO). The Planning Development Manager outlined the background to the report; the subject was previously scrutinised by the Committee in November 2018 following a change in legislation and an update requested for late 2019/early 2020.

The report had been prepared jointly by Planning and Environmental Health using data for the period October 2016 to September 2019, the two years preceding and the year following the new legislation coming into effect. The data showed that there was insufficient evidence at present to justify the introduction of Article 4 direction but HMOs would continue to be monitored by the Planning Enforcement and Environmental Health teams.

The Committee asked a range of questions and in response were advised:

- There were a number of reasons why some areas had a higher number of HMOs than others, generally it occurred in university towns or where the cost of rented property was very high. In Spelthorne the general tendency was for friends to rent a house together or through an agency. The number of HMOs in Spelthorne was very small in comparison to other areas.
- There was a cluster of HMOs around Ashford Town and Ashford North/Stanwell South, which was likely to be due to the size and type of properties.
- The new licensing regime had improved management and safety standards.
- Most complaints received related to noise and accumulation of rubbish.
- There had been an increase in enforcement action as a result of the legislative change. Information was gathered from many different sources and the approach used by the enforcement team would depend on the nature of the potential breach.

- There had been one case relating to modern day slavery, and three concerning possible illegal immigration.

Resolved to note the report.

14/20 Overview and Scrutiny Statutory Guidance

The Committee received the report relating to new statutory guidance on Overview and Scrutiny to ensure that the function is carried out effectively and agreed that further consideration needed to be given to this

Resolved to carry forward this item to the next meeting where suggestions for tangible actions can be considered.

15/20 Review of Knowle Green Estates Ltd

Resolved to move the exclusion of the Press and Public for the following item in view of the likely disclosure of exempt information within the meaning of Part 1 of Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 and by the Local Government (Access to information) (Variation) Order 2006.

Terry Collier, Deputy Chief Executive, conveyed the apologies of Councillor A.J. Harman, as Chairman of the Board of Knowle Green Estates, who was unable to attend the meeting.

Howard Williams, Non-Executive Director of Knowle Green Estates Ltd (KGE), outlined the history of the company and why it was first established in 2016. Since the company's formation the Council's direction in relation to provision of housing had substantially changed and it was now envisaged that the role of KGE would be to manage most of the Council's residential assets, managing within the next few years tenancies of 500-600 properties.

The residential portfolio would include a range of types of rental properties. It was proposed that the Council would acquire and develop suitable sites before handing these over to KGE for management. The financial arrangements for the transfer of properties were broadly outlined.

The Committee were advised that the report to be presented to Cabinet also requested that a new company, Knowle Green Estates Group, is set up with facilities for limited liability partnerships (LLP) for risk and tax management purposes.

Members were also informed that the accounts had been independently audited and were now being reviewed by the Council's external auditors as part of the Council's consolidated accounts.

The Committee scrutinised the report in detail and raised a number of questions. In response to these they were advised:

- The structure of the group was still under consideration by Cabinet in the role of shareholder representative. No Special Purpose Vehicles (SPV) or LLPs have been set up.
- The board structure had been broadened to include two non-executive directors which would bring a wider range of experience to the company and provide safeguards for continuity purposes. It had recently been decided that the company secretary need not be an individual but appropriate members of the legal department.
- The company would take its direction from the Council as the sole shareholder.
- The company will not be able to purchase or dispose of assets without the permission of the Council. Furthermore they cannot source third party funding without the permission of the Council. There had been clear instructions from the shareholder that the intention was to retain the properties for ever and not sell them. If at any stage sales were considered necessary, the company would need Cabinet's (as the shareholder representative) agreement to do so. It was also confirmed that the company was not authorised to raise mortgages on the properties.
- The Council will complete the residential developments and incur costs from the PWLB or equivalent funding source. At the point of completion the property will be transferred to KGE; they will buy assets with a loan from the Council, interest from the company will be paid to the Council. This will be reflected in the Council accounts which will show a stream of interest receivable and the capital loan will be paid down.
- The 5 year Profit and Loss projection in the plan had been produced in conjunction with KGE's financial advisers. The model had been based on a set of assumptions with the risk profile varying according to the nature of the scheme. The projections will be kept under review and the company will continue to work with the financial advisers.
- KGE doesn't currently have any employees. Any work carried out for KGE by Council staff will be recorded and charged to the company. A detailed breakdown will be provided of the officers, how much time they have incurred and the costs to the company. This will be visible in both the company's and Council's accounting and will be scrutinised by auditors from both perspectives

Mr Williams offered to report to the Overview and Scrutiny Committee on the work of the company on a regular basis, as required.

Concern was expressed that there may be insufficient or no affordable housing allocated to some developments. The Committee were informed that the shareholder's commitment to providing affordable housing was demonstrated by the fact that the first schemes have been 100% affordable as will the accommodation to be provided in the West Wing, Knowle Green. This was a key part of delivering accommodation to meet the needs of

residents. It was suggested that the Council should provide an indication of the split of tenure across all developments which could then be monitored and scrutinised.

It was proposed that there should be a mission statement, issued by the Council, setting out the purpose and aims of the company as this would assist in scrutinising and measuring the success of their work.

The Committee sought further clarification on the financial arrangements relating to asset valuation and the transfer of property at cost price and considered that the wording of the plan needing further refinement and clarity.

Resolved to recommend to Cabinet:

1. That the Business Plan for the Knowle Green Estates Group is presented alongside a mission statement or that a mission statement is subsequently developed identifying the purpose and aims of the Group.
2. The Committee believes that the process of asset valuation and transfer detailed in the Business Plan for the Knowle Green Estates Group requires further clarification.

It was agreed that an update would be provided to Overview and Scrutiny Committee at their next meeting in March 2020.

16/20 Work Programme

The Chairman provided an update on the work programme of the Committee. To avoid duplication of work, it was agreed that instead of considering the topic of renewable energy, the Committee would receive a report from the Leader's Climate Change task group at the next meeting and regular updates thereafter.

One of the items on the programme, to consider the need for a crematorium, had not yet been addressed. The Committee agreed to set up a task group consisting of Councillors Noble, Nichols and Richard Dunn to consider this. Councillor Noble requested that the issue is renamed 'Provision of a Celebration of Life Centre' rather than provision of a crematorium on the work programme.

Resolved to note the work programme.

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OVERVIEW AND SCRUTINY COMMITTEE MEETING 21 JANUARY 2020
TREASURY MANAGEMENT HALF YEARLY REPORT 2019/20
QUESTIONS AND RESPONSES

Para 1.20	Figures in Table 2 reflect “increases in income generation”. What has caused the increase in long-term borrowing and decreases in long and short-term investments?
	<p>Not quite sure what increase in long term borrowing you are referring to with respect to Table 2 , suspect you are actually referring to Table 3 where you can see that there is an increase of £11m in long term borrowing over the period. This relates to funding of the Council’s housing delivery programme, specifically with respect to the acquisition of Oast House site.</p> <p>With respect to movement in long term and short term investments, this reflects combination of some short term loans maturing and as some previously long term loans approach maturity becoming classified as short term and some loans being repaid.</p>
Para 2.4	What borrowing has taken place ahead of need and why?
	<p>The Council incurred borrowing because of property acquisitions and its housing delivery programme. Borrowing has been obtained to fund acquisitions, so funding has had to be in place before the acquisition. However, this is not ahead of need, in a practical sense, and as a matter of policy. At all times the Council liaises with and acts on the advice of its professional Treasury Management advisers Arlingclose.</p> <p>Circumstances and the timing on acquisitions processes has meant that, on occasion, borrowing has been taken out and has not been applied as expected. It should also be remembered that the Council has a significant housing delivery programme underway which requires financing.</p> <p>Short-term borrowing – in anticipation of a regeneration acquisition within Staines (previously reported to Cabinet) £20m was borrowed for less than a year. The acquisition process has since been delayed. If the acquisition were not to complete the funding would be applied to support the housing delivery programme underway.</p>
Para 2.14	Is the KGE investment included and under what description (Table 1)?
	<p>The management of delivery of housing developments is undertaken by Spelthorne Borough Council. Once schemes are completed, on the basis of an independent valuation, they are transferred from the Council to KGE with the KGE acquisition funded by a loan from the Council. As no schemes completed during the period, there have been no transfers in the year to date, so no new loans advanced to KGE.</p>
Appendix A	Is the yield the anticipated annual yield (19/20) for the investment?
	<p>The yield is averaged based on the estimated annual yield for each investment.</p>

Appendix B	<p>If the yield is “based on the initial investment”, why are the yields of the various tranches of Schroder Income Maximiser fund all the same? Given the significant variation over the years since initial purchase this is incredibly unlikely to be the case.</p> <p>It appears to be the case that the Total Return column is calculated as: $(\text{Capital gain} + \text{Dividends received}) / \text{Initial investment}$ Total return should be all income received for the lifetime of the asset + capital gain divided by the initial investment. This would then be divided by the time the asset had been held to give an annual return. The figure as quoted is meaningless. This is why we see returns on the same asset varying between 22.31% and -9.82%. What is the Total return figure meant to represent?</p>
	<p>Point 1 re Schroder maximiser: In Appendix B, the yield is calculated based on rates available from quarterly ‘Fund Suite’ reports from Arlingclose. For this report, rates as at September 2019 were used.</p> <p>The dividend is calculated based on this rate, which is the same for each of the ‘Maximiser’ items, applied to the original purchase cost.</p> <p>Point 2 re total return: Good point re income/ dividends. Understand the point re fuller picture provided by showing total return on the fund since the start. See comments below.</p> <p>However, the Capital gain/loss column does reflect movement since purchase of the fund. Some of the minuses are to do with capital losses (although overall there is a net gain of £1.4m and it is important to remember that the Council holds these assets on a medium to long term basis). That is the change since purchase. If we were to crystallise by seeking to dispose of a fund, this figure becomes particularly relevant to our accounts, hence why included. Whereas with respect to the in-year position previous years’ revenue returns are not relevant to the current year’s budget position hence why not currently shown.</p> <p>So the current format is mixing in year movement and cumulative movement, which does have an underlying rationale. However we agree we could provide a fuller picture. We will liaise with Arlingclose and revise the format for future reporting to show both the cumulative revenue returns and capital gain/loss, as well as in year revenue return.</p>