



OVERVIEW AND SCRUTINY COMMITTEE

Thursday 14 February 2019 at 6.30 pm

Council Chamber, Ryedale House, Malton

Agenda

4 **Urgent Business** (Pages 3 - 30)

To receive notice of any urgent business which the Chairman considers should be dealt with at the meeting as a matter of urgency by virtue of Section 100B(4)(b) of the Local Government Act 1972.

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Further information on the performance indicators showing Amber and Red status on the Delivering the Council Plan report

Officer Report on the Percentage of Council Tax Collected

The percentage of Council Tax collected throughout a financial year is compared to the level of that collected in the previous financial year. By default, tax payers' accounts are profiled to collect the full amount for the financial year through the statutory instalment scheme. This means that a high proportion of residents are paying 6/5ths of the monthly amount each month so that their liability is clear by January. Since 2013, the government introduced legislation to allow tax payers to pay their instalments over the full 12 months of the year and each year the uptake of residents opting into this increases. This has the effect of the in-year collection being reduced in the months leading up until the end of the financial year.

The number of residents paying by 12 monthly instalments is currently 21.12% compared to 17.98% at the same time last year.

Officer Report on the Standard Searches carried out within 10 working days

The performance for searches had dropped due to a number of reasons including the reduction of staff, temporary staff and staff successfully applying for other roles.

The volume of searches and planning applications has continued to increase and the team were struggling to keep up with the validation of applications, so performance went from 2-3 days to up to 3 weeks.

We recruited for an additional post October 2018 which has had a positive impact on the team's performance. The statistics for January were 96% within 5 days and 100% within 10 days.

Personal search companies have however increased their market share from 25% to 45%.

In response, we intend to upgrade the TLC system for Land Charges. The new system will have additional functionality to enable Solicitors to submit searches on-line. We will then be able to deal with them immediately and increase turnaround time to provide an improved service and to compete with the personal search companies. We also intend to contact Solicitors who use personal search companies in order to show them the new system with the aim of increasing take-up. This will then hopefully increase the number of searches and income over time.

	Total searches	RDC	Personal	Fees
2015/16	1288	1018	270	£113,269
2016/17	1200	915	285	£107,447
2017/18	1128	807	321	£100,107
2018/19	953	626	327	£92,700

Officer Report on the Number of Affordable Homes Delivered

Historically performance in respect of the delivery of affordable housing has been seasonal with quarterly performance usually showing relatively 'heavy' delivery in Quarter 4 in any given year. For example in the annual delivery of 40 affordable units for the financial year 2017/18, 33 of the units delivered that year were in Quarter 4.

For the end of Quarter 3 of the current year 2018/19, 20 affordable units had been delivered against the annual target of 75 units. As of 7 February 2019, this figure has risen to 23 affordable units with one additional unit from Pecketts Yard, Sheriff Hutton (Daniel Gath Homes) and 2 units from Phase 1 of the Showfield Site, Malton (Linden Homes).

The Council Plan report identifies a number of other sites around the District that remain on target to deliver additional affordable units prior to the end of the financial year. Officer contact occurs on a regular basis with developers on these key sites with the expectation of the delivery of the following additional amounts of affordable housing from the following list of sites before the end of March 2019:

- East Hill, Thornton le Dale 4 units (NB-Developer still aiming to hand over 7 units)
- Bransdale View, Helmsley 61 units (Completion / Handover date 18/03/2019)
- Low Moorgate, Rillington 2 units
- Mickle Hill, Pickering 12 units (Delay arising from completion of off-site works)

Together the delivery of these additional sites would exceed 100 affordable units in 2018/19.

Attached to this exception report for Members information is a detailed table showing the Affordable Housing Development Programme for 2018/19 and beyond. The table is maintained by the Council's Rural Housing Enabler as a 'live' document and is amended regularly as information comes to hand in respect of on-site delivery.

Officer Report on Customer Complaints resolved within 5 working days

Of the 10 complaints in quarter 3, four of which were not responded within the target of 5 working days.

Legal

RDC2018_PLA005

Stage 1 Complaint received on 27 November 2018 about how the Council has discharged its planning functions in handling and determining a planning application.

The complaint was acknowledged on 27 November 2018 with standard 5 day response time of 3 December 2018.

A 1 week extension was requested by Mr Winship, Council Solicitor, due to the complexity of the case. This set the revised response date at 10 December 2018.

The customer was advised of the extension and a 7 page response was issued on the 10 December 2018 advising the complaint was not upheld.

Stage 2 complaint received 7 February 2019 and currently under consideration.

Operations

RDC2018_SS0016

Stage 1 Complaint received on 2 October 2018 about garden waste repeatedly not been emptied.

The complaint was acknowledged on 2 October 2018 with the standard 5 day response time of 8 October 2018.

Mr Granger rang the customer on 16 October 2018 and apologised for the poor service and advised the team were looking at a solution to prevent the problem from reoccurring.

Following an investigation, it was found that the garden waste licence was not purchased until mid-summer and it was noticed the missed collections were mostly due to not having an up-to-date licence.

Customer satisfied with outcome and complaint closed.

RDC2018_SS018

Stage 1 complaint received 16 October 2018 about RDC vehicle blocking a driveway.

The complaint was acknowledged on 16 October 2018 with the standard 5 day response time of 22 October 18.

Mr Granger emailed and rang the customer on 24 October 2018 apologising and to arrange a meeting.

On the 1 November 2018, the meeting took place, with apology provided and driver addressed.

The van was removed straight away through the out of hours service. Arrangements were made to meet the customer at the earliest possible time, however Mr Granger was on annual leave from the 24-30 October 2018.

Customer satisfied with outcome and complaint closed.

In order to improve the reporting to Members in this area, it is recommended that we report on customer compliments as well as complaints through the Overview and Scrutiny committee and would appreciate views on this.

RDC2018_SS019

Stage 1 Complaint received 23 October 2018 regarding an RDC waste vehicle causing damage to village green.

The complaint was acknowledged on 23 October 2018 with the standard 5 day response time of 29 October 2018.

On 29 October 2018 the customer was advised of a revised response date of 9 November 2018 due to the need for a site visit and inspection.

On 9 November 2018 Mr Granger sent a letter of response outlining his findings and a remedy.

Mr Granger was on annual leave 24-30 October 2018 and the meeting was arranged around the customers commitments and diary.

The customer was satisfied with the outcome and the complaint closed.

Officer Report on the Speed of processing new claims for Council Tax Support

As at Quarter 2, performance was below target at an average of 34.097 days (Red status). As previously explained to Members at O&S in November 2018, there were a number of reasons for the increase:

1. The increase in the volume of Universal Credit Claims.
2. The Benefits team had a backlog of Universal Credit New Claim notifications whilst the system was implemented to automate the Universal Credit Notifications.
3. During the implementation of the automation of Universal Credit Notifications, the team experienced an 8 week backlog. The system is now up and running, amendments are made on an ongoing basis, there is no backlog and as a result performance has improved.

As at the end of Quarter 3, the speed of processing in this area had improved to 25.597 days (Amber)

Performance is improving – the last 3 months performances have all been under target –

November 2018 – 22.88 days

December 2018 – 12.42 days

January 2019 – 14.74 days

There are factors outside of Officers control with this target, as the assessment of Universal Credit new claims takes a minimum of 35 days. I have asked DWP to provide a range of the time it takes to process a New Claim for Universal Credit.

Non-Universal Credit CTR new claims are dealt with by the Benefits team as soon as all information is received from the citizen. Citizens are encouraged by the team to provide all the required information as soon as they can.

The automation of the Universal Credit notifications has seen an increase in our CTR New claim caseload, citizens are now receiving an entitlement without needing to contact us directly.

CTR Caseload as at:-

June 2018 – 3011

January 2019 – 3068

To continue the improvement in the CTR New Claim performance, I am exploring splitting the performance into two indicators - one for Universal Credit CTR New Claims and one for non-Universal Credit CTR New Claims.

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Ryedale District Council
Affordable Housing Development Programme 2018/19

2018/19: Completed Schemes and those on site

Updated 7.02.19

Scheme	Developer/RP	Units and Tenure	Type of scheme	Current status	Completion date
Broughton Rd, Malton 10/00899/MOUT 11/011821/MREM Damson Court Damson Avenue Harvest Drive Acre Way Page 9	Taylor Wimpey Yorkshire Housing	80 units 60% rented 40% intermediate 45 x 2b 35 x 3b Social rent 23 x 2b 25 x 3b Aff rent 10 x 2b 7 x 3b Shared Own 12 x 2b 3 x 3b	S106 site Overage clause	Outline permission approved – 262 units. Full Planning App approved at Feb 12 Com. Deed of Variation 28.9.18 48 x 2bed, 101 x 3bed, 110 x 4bed, 3 x 5bed - full scheme 2014/15 - 8 Aff Rent 2015/16 - 9 Social Rent 8 Aff Rent 2 Shared Ownership 2016/17- 10 Social Rent 4 Aff Rent 2017/18 - 15 Social Rent 2018/19 1 Social Rent 2 Aff Rent 6 Shared Ownership 18/19 - 1 x social rent 20.7.18 3 x aff rent 1 x 24.8.18; 2 x 20.7.18 7 x SO 5 x 24.8.18; 2 x 20.7.18	On site 11 Expected 11 Completed
Broughton Rd, Malton (allotment site) 13/01141/MFUL	Taylor Wimpey Thirteen Group or Home Housing (Each think they are in the frame)	29 units 16 x 1b quads SR 8 x 2bed quads SR 2 x 2bed houses SR 3 x 2bed houses INT	S106 site	Stand alone application on land originally set aside for allotments, now moved offsite 35% of 83 = 29.05 Planning approval granted 9.4.15. No commuted sum for the 0.05% as agreed with RB. Plots 316-325 and 264-279 Social Rent/313-315 Intermediate First affordable units due start of 2019 although Taylor Wimpey have still not confirmed which RP will be taking them.	On Site 0 Expected

Mickle Hill/ Crossgate Lane, Pickering 13/00016/MOUT 14/00976/MREM	Methodist Homes Termrim	24 extra care units <u>Care Suites</u> 8 x 1B SR 4 x 1B SO <u>Bungalows</u> 8 x 1B SR 4 x 2B SO	S106 site	Outline submitted for 168 assisted living units (90 2b/1b care suites) and 70 x 2b bungalows, 8 x 1b bungalows 24 affordable units 2016/17 - 8 Flats complete for rent 1 Flat for shared ownership 3 Flats for SO taken back by Methodist Homes Ongoing issues between Rangeford and Methodist Homes. No indication of completion date.	On Site 0 Expected
Swanland Park, Helmsley NYM/2014/0808/FL Page	Wharfedale Homes Broadacres	24 units 13 x 1bed flats 11 x 2bed houses 6 DFS x 2beds 18 social rent	S106 site	Application for 60 homes with 40% affordable = 24 units Went to Feb plan com with in principle agreement Estate to keep all affordable which might be all rented although 4 could be DFS Now agreeing S106 - update from NP Oct 15 to say very near to being signed. Draft sent to RDC Started on site Feb 2017 Build in 3 phases with 14 to be completed in 2017 and first affordable in 2018 DFS open event in spring 2019? Jennie dealing with several applications already in.	On site 6 Comp Social Rent Jan 2019 4 x 1beds 2 x 2beds
Victoria Mews, High St, Sherburn 16/01088/FUL	Wellesley Homes	Off-site contribution (SP3 policy for dev between 6-10 units). Also amount reduced due to viability)	S106 site Com sum £43,484 Not to occupy no more than 4 then £21,742 due, then after 7 same amount due	No pre app done with Developer submitting plan app in Oct 2016 9 dwellings with an off-site contribution for 3.5 (35%) - at viability now Started on site July 2017 C Tax has served notice of completion on the developer (June18) but no properties banded as yet. Checked website but no indication of sales	On site 0 Expected
Pecketts Yard, East End, Sheriff Hutton 15/00736/MFUL 16/00965/MFUL	Daniel Gath Homes Broadacres	4 units 4 x 2beds 3 x rented 1 x DFS 0.8 com sum	S106 site Com sum 0.8 £67,653 Not to permit occupation of more than 75% of market homes	Application for 12 homes with 35% affordable + a further 5% contribution = 4.8 units Revised plans for 12 units just submitted for planning - June16 1 x 5b, 6 x 4b, 1 x 3b, 4 x 2b Approved at Oct 2016 meeting Start on site Sept 2017 Broadacres looking to take the all the affordable including the one DFS All Rented props publicised with flyers delivered around the village Broadacres have allocated the 1 DFS unit (working connection to parish)	On site 4 Expected 3 Comp Social Rent June 2018 2b - 12 Peckets Close 2b - 2b - 1 DFS Dec 2018

Black Swan Helmsley NYM/2012/0355/FL	Croft Residential	4 units DFS 1bed flats (leasehold)	S106 site	17 units with 4 x 1beds affordable proposed + overage 4 x 1beds (54m ²) Not to allow occ of 8 om until DFS has commenced Not to allow occ of 15 om until DFS provided. S106 signed 11.2.16 Started on site Meeting at RDC on 10.10.16 to discuss DFS units Planning Open Event held on 18 November 2016 1-7pm. Good interest with nearly 30 on the list After NP meeting in Feb, units now not expected to be completed till summer. Will put into 17/18 Programme 12 occupied so 4 more to go before affordable must be completed	On site 0 Expected
Easthill, Thornton Dale 16/01947/MFUL Page	Th Dale Estates Broadacres	9 units 6 x 2beds 3 x 3beds 6 x rented 3 x DFS	S106 site Com sum 0.1 £8,500 No trigger point in S106 for payment of com sum	Full application submitted in Jan 2017 after pre app with Gary. 9 x 4b, 13 x 3b and 4 x 2beds = 26 units @ 35% = 9.1 Approved in April 2017 S106 signed and started on site Aug 2017 First affordable possibly ready spring 2018 Open Day held on 6 Oct for both rented and DFS units. Decision not to change any tenures 6 Rented due end Feb and April 19. Currently no safe access to parking areas	On site 4 Expected
Low Moorgate, Rillington - phase 1 & 2 13/00652/MOUT 17/00288/MREM 16/00354/MOUT 17/01064/MREM	Broadacres Mulgrave Properties	5 units 3 units Phase 1 2 x 2B rent 1 x 3B SO Phase 2 2 x 2B SO 3 x 1B houses rented	S106 site Com sum £37,042 ph 1 Com sum £39,182 (1.3) ph 2	Phase 1 for 10 units with 3 affordable + 0.5 com sum 35% of 10 is 3.5 Approved at Sept meeting subject to S106. Decision notice issued 17/3/14 Phase 2 for 18 units with 5 affordable on site agreed and + 1.3 com sum 35% of 18 is 6.3 (Phase 1 – units changed to 2 x 1B/1 x 2B because of sizes) 2 x 2beds advertised on Home Choice in Dec Handover Jan 2019?	On site 2 Expected

Bransdale View, Helmsley Extra Care	Housing & Care 21 + Keepmoat	61 units (Affordable) 39 x 2b apart 25 x 1b apart 21x 1b rent 4 x 1b SO 36 x 2b SO 3 x 2b outright sale	S106 site Extra Care	Housing & Care 21 Meeting with NP planners arranged on 19.11.15 Application will also include adjoining dev with Keepmoat for 35 market (mix of 3b/4b homes). Viability now being submitted to see if the extra care will meet the full AH requirement of 40% which complies with NP policy - David Hand doing the viability at SBC Planning application submitted on 13 Sept and due to go to Plan Com on 15 Dec. Deferred and going back to Com on 19 Jan? Approved at Jan 17 Plan Com. S106 completed March 2017 Started on site 23.3.17 Completion expected 14 Jan 2019 After this there'll be a 6 wk commissioning period when residents will be signed up. H&C 21 looking to do a topping out ceremony As at 7.2.19 - 61 Affordable expected in 18 March 2019	On site 61 Expected
Malton Cluster Sites 14/00428/MOUTE (Westgate, Old Malton)	Fitzwilliam 16/01250/MREM Broadacres	4 units 4 x 2beds	S106 site	Outline submitted for 35 market with 4 affordable intermediate 39 Dwellings - conditional approval 17.1.17 Decision notice issued 24/3/15 Broadacres/NYCC discussing disposal of the site	On site 0 Expected
Malton Cluster Sites 15/00616/MREM (The Showfield, Pasture Lane, Malton) Phase 1	Fitzwilliam Linden Homes	0 Units	S106 site	No RDC affordables on Phase 1 through the S106. Conditional approval 3.7.18 174 Homes (inc Heylo)	On site 0 Expected
Malton Cluster Sites (The Showfield, pasture Lane, Malton) Phase 1	Fitzwilliam Linden Homes Heylo	6 Units	SOAHP	Heylo taking 6 x 3B's under the SOAHP for Homes Reach/Shared Ownership Plot 107 24/1/19 XC Plot 110 17/9/18 XC Plot 108 16/10/18 XC Plot 111 31/1/19 Comp Plot 109 12/01/19 XC Plot 112 31/1/19 Comp On target for 6 completions 18/19	On site 6 Expected 2 Comp
Malton Cluster Sites 14/00427/MOUT/18/00304/MREM (The Showfield, Pasture Lane, Malton) Phase 2	Fitzwilliam Linden Homes	0 Units	S106 site	No affordables. 53 Units Conditional approval 3.7.18	On site 0 Expected

Malton Cluster Sites 16/00013/MOUT/ 18/00305/MREM (The Showfield, Pasture Lane, Malton) Phase 3	Fitzwilliam Linden Homes	4 units DFS 2 x 2b @ 79sqm 2 x 3b @ 93sqm	S106 Site	87 Units. Discount sale at RDC transfer prices and sizes. S106 signed 20.7.17 2B x £93,551 3B x £95,422	On site 0 Expected
Firthlands Rd, Pickering Phase 1 14/01259/MFUL	Persimmon Broadacres	18 units 16 rented 4 x 1b, 6 x 2b, 6 x 3b 2 int DS 2 x 2b	S106 Com Sum 0.2	Full application for 52 dwellings of which 18 are proposed as affordable Submitted Dec 2014 35% of 52 = 18.2 0.2 As a commuted sum (to be agreed. OMV-2B transf value for rent x 0.2) Approved at planning 10.5.16. S106 signed 13/9/17 On site	Possible 0 Expected
Malton Cluster Sites 14/00429/MOUTE (Rainbow Lane) 17/01509/MREM	Fitzwilliam Broadacres Lindum Homes	56 units 4 x 1B2P ¼H 16 x 2B3P B 18 x 2B4P H 18 x 3B5P H	S106/SOAFP	56 affordable on Rainbow Lane which includes % from site at Showfield Lane Decision notice issued 24/3/15 Reserved matters app January 18. 36 Aff Rent; 20 x SO. 100% affordable scheme. 2 year phased programme. First completions due March 2020. On site.	Possible 0 Expected
Land adjacent Auburn Cottages, Langton Rd, Norton 15/00098/MOUT 16/00405/MOUT Site B 17/01517/MREM	Gladman Keepmoat Yorkshire Housing	30 Units 15 X 2B4PH aff Rent 11 x 3B5PH Int Rent 4 x 3BPH SO	S106 Site	Outline for up to 85 dwellings. Affordable element of 29.75 homes. Refused - Inquiry in June 15. Appeal being considered Revised application submitted March 2016 - Refused 7.6.16 Appeal - allowed Aug16 All affordables to be provided on site B (79 units) at 30 no. DoV signed 18.11.8 Planning 5/6/18 Conditional approval granted Plots 25 & 26 due Oct 19 (SO) Plots 67 & 68 due June 20 (SO)	Possible 0 Expected
East of Whitby Rd, Pickering 17/01220/MFUL	David Wilson Homes	83 units 16 x 1B2P ¼ H 50 x 2B4P H 17 x 3B5P H	S106 Com sum 0.65	239 homes with 83 affordable. Full permission submitted end Octo 17. Site will be allocated in the Local Plan. Agreement with Developer to replace the proposed 2 type smaller units with larger 1 bed. 75% Rent/25% Intermediate Planning approved 3.7.18	Possible 0 Expected
Total		Approx 80+ Expected in 18/19			Completions so far: 23

2019/20 Starts: Planning approved or submitted

Scheme	Developer/RP	Units and Tenure	Type of scheme	Current Status	Development Potential
Firthlands Rd, Pickering Phase 2 17/01536/MFUL	Persimmon	58 units 14 x 1b aff rent 22 x 2b aff rent 8 x 3b aff rent 2 x 4b aff rent 2 x 2b int rent 2 x 2b DS 4 x 3b int rent 4 x 3b DS	S106	Planning submitted for 163 units with 35% affordable. Ongoing negotiation regarding size of 3 and 4 bed units. Deferred 3.7.18. Refused 29.8.18	
Westfields Kirkbymoore' 12/00599/MOUT 13/00342/MOUT 13/00314/MOUT 17/01449/MREM 2014	Gladman	79 units Mix under review	S106 site	Outline planning app submitted July 2012 Agreed 60 units onsite and 13.5 offsite contribution Outline permission approved at Aug 2013 meeting Possibility of Judicial Review Nov13 - New application submitted for 225 res dwellings with 35% affordable proposed = 78.75 aff Won Appeal Dec 2014 Treat as an application in the plan Site permission ends in Dec 2017 RES submitted Dec 2017 – Meeting with Gladmans on 8.2.18	Possible
Land at The Balk, Slingsby 18/00686/MOUT	Castle Howard Estate	13 units	S106 site Com sum £31,920	Outline app submitted but no committee date as yet. 38 dwellings with 13.3 affordable provision. 13 aff units with a com sum of £31,920 Amendments to application Dec 2018, some issues still to sort	Possible
Brickworks, Kirkbymoorside			S106 site Com sum		
ATS site, Commercial St, Norton 14/00947/MFUL	Mrs L. Burr No RP yet	18 units 11 x 1bed apart 7 x 2bed “	S106 site Com sum	18 affordable out of 63 units Affordable % works out at 28.5%. 4.05 units to be a commuted sum. Planning approved. S106 issued. York Housing Ass looking at proposals for the scheme	Possible
Manor Farm, Sherburn	Gladman	26 units	S106 site	Outline app for 73 res units with 35% affordable Outline approved in principle at 10 Feb Com 2015 S106 now being done. Decision notice not issued as yet.	Possible

14/01207/MOUT				Colin to check who signed S106 for any updates - is this a stalled site?	
Walnot Grove Sherburn 17/00107/FUL	Broadacres	2 units LCHO 2 x 2beds	RES	Approved by delegated powers in 2017. Legal now on with S106 Broadacres wanting to do both as shared ownership and convert to rent if unable to find purchasers Initiated with Bob about drafting S106 – Jan 2019	Possible
Mount Farm Mews, Westow	Palladian Homes	1 unit 1 x 2b DFS	S106 site Com sum £31,560	Approval for 4 units with 1 x 2b affordable. 1 x 3b and a terrace of 1 x 3b, 2 x 2b - 1 x 2b affordable Homes almost finished and now being advertised.	Possible
Riccaldale Drive, Helmsley 17/01238/MFUL	Yorkshire Housing	16 units 10 x 3b aff rent 3 x 2b aff rent 3 x 3b rent to buy	S106 site (35% + 5%)	Application submitted 2017 for 46 with 16 affordable (7 x 4B, 33 x 3B, 6 x 2B) 13 aff rent, 3 Intermediate (Rent to Buy) Approved at committee 8.5.18 subject to S106 No start date as yet	Possible

Potential Development Programme: 2016-20 onwards

Scheme	RP	Units and Tenure	Type of scheme	Current Status	Development Potential
Norton Lodge, Beverley Rd	Barratt/Taylor Wimpey	203 units	S106	Approx 580 homes plus primary school, link road and car parking for existing industrial units. Currently in for pre-app. Developer gearing up for planning app. Site will be allocated in the Local Plan. Report to Members in March.	Possible
North of A170 Middleton Rd, Pickering	Barratt/Taylor Wimpey	43 units	S106 Com sum 0.75	Currently in for pre-app. 125 homes?	Possible
Land at Swineherd Lane, Kirkby	W&W Estates	12 units 0.6 com sum	S106 site	Pre app scheme now in for 36 homes with 35% affordable = 12.6 Looking at a mix of 2b/3b affordable homes on site with 0.6 com sum Site will be allocated in the Local Plan.	Possible
Outgang Lane, Pickering	York Housing	10 units	Exception site	Land owner currently working with York Housing to procure an affordable scheme adjacent to a site for an industrial unit. Currently working up proposals with the RP as the industrial unit now in for planning and needs to be delivered before the housing can progress. Offer made for	Possible

				the site.	
RDC Site, Malton	TBC	Approx 60	SOAHP (2021 onwards)	Site currently undergoing viability study. Development will follow on from the Council moving to new premises (the Hub) at Wentworth Street where the existing Community House is situated.	Possible
Railway Tavern, Norton	York Housing	7	CLH/AHP?	Valuation obtained. RDC appointed Architects to undertake basic scheme feasibility which has shown 7 1 bed flats.	Possible
5 Vine Street, Norton	York Housing	5	SOAHP?	RDC currently lease this HMO from private landlord who is looking to sell. RDC considering options with York HA	Possible

Potential Rural Exception Sites 19/20 onwards

Land east of East Street, Swinton	York/Karbon	?	RES	York/Karbon looking at this site. Problem is the access into the site but also from the main road into East Street. CH asking planners about this site as well as Highways through York/Karbon – Steve Jackson. Possible survey in March	Possible
Flatts Lane, Wombledon	Broadacres?	?	RES	Pre app done and Planning think this could be a possible RES if local need identified. CH has asked to meet the agent/landowner on site before doing a possible survey in 2019. Survey could involve parishes of Wombledon and adjoining Welburn (Kirkby)	Possible
Gilling East	York/Karbon	6?	RES	RES identified subject to an identified housing need in the parish. CH attended PC meeting in Nov 2018 and PC agreed to survey in Jan 2019. Planners happy with site for a RES. Survey planned to go out end of Jan 2019	Possible
Main Street, Sinnington	TBC	?	RES	Site identified through Com First Yorkshire who discussed using this site for a CLH scheme. CFY attending PC meeting to discuss this with the PC. CH has been to meet the landowner.	
Station Rd, Nawton	York/Karbon	?	RES	York/Karbon looking at taking up the option from YH. No further details at this stage. Will need another parish survey to identify local need in Nawton/Beadlam	Possible

Possible Parish Surveys 19/20 onwards

Parish	Site identified	Current status	Possible date
Gilling East	Yes	CH attending PC meeting on 22.11.18	Feb 2019
Habton	Discussing with Planning	CH attending PC meeting on 10.12.18	April 2019

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PART A:	MATTERS DEALT WITH UNDER DELEGATED POWERS
REPORT TO:	OVERVIEW AND SCRUTINY COMMITTEE
DATE:	14 FEBRUARY 2019
REPORT OF THE:	COUNCIL SOLICITOR AND MONITORING OFFICER
TITLE OF REPORT:	STANDARDS COMPLAINTS OVERVIEW 2018/19 AND ANNUAL REPORT
WARDS AFFECTED:	ALL

1.0 PURPOSE OF REPORT

- 1.1 The purpose of this report is to update members of the Overview and Scrutiny Committee acting as a Corporate Governance Standards Committee on the matters within the remit of the Committee for the Municipal Year 2018/19 to date.

2.0 RECOMMENDATION(S)

- 2.1 It is recommended that the report be noted

3.0 REASON FOR RECOMMENDATION(S)

- 3.1 To inform the Committee of the operation of arrangements in place to discharge the standards obligations of the District Council.
- 3.2 To better inform the Council's Annual Governance Statement (AGS) by collating oversight from this committee on matters within its remit.

4.0 SIGNIFICANT RISKS

- 4.1 None.

5.0 POLICY CONTEXT

- 5.1 The report supports the corporate aims of the Council.

6.0 BACKGROUND

The Roles of the Overview and Scrutiny Committee acting as a Corporate Governance Standards Committee and the Council's Monitoring Officer

- 6.1 The role and functions of the Overview and Scrutiny Committee acting as a Corporate Governance Standards Committee and the Council's Monitoring Officer

are set out in the Council's Constitution and reproduced for ease of reference in Appendix 1 to this Report.

Operation of Codes and Guidance relating to Members.

- 6.2 Under the present regime the Council is required to adopt its own Code of Conduct that when viewed as a whole is consistent with the principles set out at section 28(1) of the Localism Act 2011 (the Nolan Principles).
- 6.3 Members will be aware that whilst officers do provide advice to Members, if asked, on Members' interests it is the responsibility of individual members to comply with the requirements of the Code of Conduct. Regular reminders are sent to Members regarding updating their Register of Interests.
- 6.4 The Register of Interests requirements are covered in New Member Induction and all new Councillors will be advised to register their interests after the May 2019 District and Parish Council elections. The Monitoring Officer is of the view that this requirement is understood by Members and that if they have queries Members do routinely seek advice in relation to declaration of Interests.
- 6.5 The Code of Conduct for Members, Planning Code of Practice for Members, and the Member/Officer Relations Protocol are contained in the Council's Constitution

Overview and Scrutiny Committee acting as a Corporate Governance Standards Committee– Arrangements

- 6.6 Since July 2012 the Overview and Scrutiny Committee acting as a Corporate Governance Standards Committee has been operating under new arrangements pursuant to the Localism Act 2011. This included the abolition of the Standards Board for England, and the prescribed Code of Conduct.
- 6.7 The Localism Act 2011 also removed the power of Councils Standards Committees or any Appeal Tribunal to suspend Members for misconduct. The Government at the time was of the view that it is the right and proper responsibility of the electorate to determine who represents them and that the abolition of the regime would restore power to local people. This was an important point of principle for the Government.
- 6.8 Section 28(6) of the Localism Act 2011 requires the Council to have in place arrangements under which allegations of breach of the Code can be investigated, and decisions made upon those allegations. Under section 28(7) of the same Act the Council must also appoint an Independent Person whose views are to be sought and taken into account by the Council before it makes a decision on any allegation it has decided to investigate, and whose views may be sought generally.
- 6.9 As Council Solicitor and the Monitoring Officer (MO) I am duly appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct. The detailed arrangements for handling complaints are set out in the Arrangements for Dealing With Complaints Against Councillors.
- 6.10 There are 3 potential stages through which a complaint may proceed:

Stage 1 - Initial Assessment stage where the Monitoring Officer, in consultation with the Council's Independent Person, will decide whether to reject the complaint, seek informal resolution of the matter or refer the complaint for formal Investigation.

Stage 2 - Where a complaint is referred for Investigation, the Monitoring Officer will appoint an Investigating Officer to investigate the matter.

Stage 3 - If the Investigating Officer's final report concludes that there is sufficient evidence of a failure by the Member to comply with the Code, the Monitoring Officer will put the matter before the Corporate Governance Standards Sub-Committee (Hearing Panel) for determination.

- 6.11 In stage 1 above where the allegations and information available at that time do not support an allegation that a breach of the Code of Conduct has occurred, there will ordinarily be no further action on the complaint. In the year 2018/19 there have been 6 cases which are summarised in Appendix 2.
- 6.12 The last occasion when the Corporate Governance Standards Sub-Committee had a hearing was in the case relating to Councillor John Raper in 9 February 2017 which resulted in a censure motion before Council on 21 February 2017. The complaint was about Councillor Raper voting twice on two votes at the Council meeting on 8 December 2016.

REPORT

7.0 REPORT DETAILS

- 7.1 The Council's Members' Code of Conduct has been in operation since 19 May 2012.
- 7.2 It should be noted that although the District Council continues to deal with complaints against Parish and Town Council Members, it is entirely a matter for each Parish and Town Council to determine the form of the Code of Conduct they adopt, and to which their Members are subject. The vast majority of Parish and Town Councils in this District have adopted a code drafted by the National Association of Local Councils (NALC).
- 7.3 During 2018/19 to date the District Council received/considered 6 matters of complaint. The table set out at Appendix 2 gives further detail about these matters and their respective outcomes and in two cases pending status.
- 7.4 The Committee is aware that complaints about failure to register a DPI are subject to criminal sanction. The Monitoring Officer is not aware of any action having been taken by the Police in relation to DPI requirements.
- 7.5 All of the complaints referred to in paragraph 6.3 above culminating in a decision were considered by the Independent Person and the Monitoring Officer.
- 7.6 Four of the complaints that resulted in no further action did so because the alleged behaviour could not be said to have taken place when the Councillors against whom the complaints were made were acting in their capacity as elected Members. On this matter, section 27(2) of the Localism Act 2011 provides that the Code of Conduct only applies to a Member when they are acting in that capacity.
- 7.7 This position is further supported by the judgment of the Administrative Court (Queen's Bench Division) in *Livingstone v Adjudication Panel for England* [2006] All ER (D) 230 (Oct).

- 7.8 The regime pursuant to the Localism Act 2011 has now been in operation for almost 7 years. During that time there has been a decline in the number of complaints being made.
- 7.9 The regime has worked very well in reducing red tape and the burden upon resources, and has allowed for a more efficient and effective way of dealing with vexatious complaints. The involvement of the Independent Persons has been particularly invaluable.
- 7.10 However, the removal of the statutory sanctions that could (pre Localism Act 2011) be imposed upon those who had been found in breach of the Code has been a big area of concern. Central Government instead placed more emphasis on criminal offences for failure to comply with the provisions concerning disclosable pecuniary interests.
- 7.11 Consequently, the extent to which the new regime is effective in relation to matters other than those concerning disclosable pecuniary interests is to a large extent dependent upon the willingness and commitment of Members themselves to uphold the principle of the regime.
- 7.12 In addition, the lack of available sanctions is a major consideration when determining whether to use scant resources to undertake a formal investigation and report to the Corporate Governance Standards Sub-Committee. The greatest sanction a District Council has is the passing of a censure motion at Full Council.
- 7.13 Members will be interested to know that Lord Bew (the Chair of the Committee on Standards in Public Life) advised the Prime Minister that the Committee was undertaking a review of local government ethical standards. A public consultation was opened to help inform that review, and which closed at 5pm on 18 May 2018.
- 7.14 The review not only focuses on the current regime, but also seeks evidence of intimidation of Councillors so that it can make recommendations for any measures that could be put in place to prevent and address such intimidation.
- 7.15 On 21 January 2019 the Committee on Standards in Public Life has published its report on local government ethical standards. Further details about the consultation can be found on the Committee for Standards in Public Life's website at: www.gov.uk/government/organisations/the-committee-on-standards-in-public-life
- 7.16 The headline recommendation in the report include bringing back suspension of Councillors for six months for serious breaches of the Code of Conduct with a right of appeal to the Local Government and Social Care Ombudsman and a proposal to decriminalise the requirements on Councillors relating to declarable pecuniary interests (DPI's).
- 7.17 Members are advised that arrangements have been made for training on standards as part of the induction process after the May 2019 District Council elections.

8.0 IMPLICATIONS

- 8.1 All relevant implications have been considered in the body of this report.

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The Role of the Standards Committee

ARTICLE 8 - THE OVERVIEW AND SCRUTINY COMMITTEE ACTING AS A CORPORATE GOVERNANCE STANDARDS COMMITTEE

8.1 Corporate Governance Standards Committee

The Council will have a Corporate Governance Standards Committee operated by the Overview and Scrutiny Committee.

8.2 Composition

- (a) **Membership** The Corporate Governance Standards Committee will comprise:
The membership of the Overview and Scrutiny Committee;
- (b) **Independent Persons** Where required by law the Corporate Governance Standards Committee will receive representations from the Independent Persons but will not be entitled to vote at meetings.

8.3 Roles and Functions

The terms of reference for the Corporate Governance Standards Committee are set out in Part 3 of this Constitution entitled "Responsibility for Functions" under the terms of reference for the Overview and Scrutiny Committee.

The Corporate Governance Standards Committee will:

- seek to promote and maintain a high standard of conduct in the transaction of all Council and Local Council business.
- assist in the observation of the Members' Code of Conduct (set out in Part 5 of this Constitution).
- advise on the adoption, revision or monitoring of the Members' Code of Conduct.
- take a general overview on all ethical issues and issues of probity.
- conduct hearings into complaints referred to it from the Monitoring Officer.

TERMS OF REFERENCE: OVERVIEW AND SCRUTINY ACTING AS A CORPORATE GOVERNANCE STANDARDS COMMITTEE

The Overview and Scrutiny Committee has been given delegated authority to exercise the Corporate Governance Standards Committee role for Ryedale District Council. References in these Terms of Reference to the Corporate Governance Standards Committee is a reference to the Overview and Scrutiny Committee exercising the Corporate Governance Standards Committee role for Ryedale District Council.

MEMBERSHIP

All the Members of the Overview and Scrutiny Committee.

FREQUENCY OF MEETINGS:

Corporate Governance Standards Committee agenda items will be a standing item on the Overview and Scrutiny Committee agenda on at least two occasions each year.

FUNCTIONS

The Corporate Governance Standards Committee will have the following roles and functions:

- (a) Promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives and officers.
- (b) Assisting the Councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct.
- (c) Advising the Council on the adoption or revision of the Members' and officers' Codes of Conduct.
- (d) Monitoring the operation of the Members' and Officers' Codes of Conduct.
- (e) Advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct.
- (f) To consider and determine allegations that individual Members have breached the Members' Code of Conduct.
- (g) Taking all decisions that are necessary to deal with individual cases of alleged breaches of the Code.
- (h) The exercise of (f) and (g) above in relation to the Town or Parish Councils wholly or mainly in the Ryedale district and the Members of those Councils; and
- (i) Reviewing and monitoring the Council's response to:
 - (i) Probity and standards issues arising from internal audit functions and reports of the external auditor.

- (ii) Corporate Governance issues, including overview of whistle blowing and complaints handling.
- (iii) Local Ombudsman's investigations.
- (j) The power to grant dispensations to Members and Co-opted Members.
- (k) Any other functions allocated to the Corporate Governance Standards Committee by Council under any enactment from time to time.

Terms of Reference of the Corporate Governance Standards Sub-Committee

1. Terms of Reference

- (a) The Corporate Governance Standards Sub-Committee is established to determine complaints that a Member of Ryedale District Council or a Town or Parish Council within the Ryedale district has failed, or may have failed, to comply with that Authority's Code of Conduct.
- (b) Upon completion of an investigation by the Investigating Officer, the Sub Committee shall be responsible for determining whether:
 - (i) It accepts the Investigating Officer's finding of no failure to observe the Code of Conduct.
 - (ii) It accepts the Investigation Officer's finding of a failure to observe the Code of Conduct.
- (c) Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1(b), the Sub-Committee shall state its reasons for that decision.

2. Sanctions

In the event that the Corporate Governance Standards Sub-Committee makes a finding of a failure to observe the Code of Conduct it may impose any or all of the following sanctions:

- (a) Issue a letter of censure to the Member and where appropriate require an apology to be given to the complainant.
- (b) Recommend to the Member's Group Leader that he/she be removed from any or all Committees or Sub-Committees of the Council.
- (c) Instruct the Monitoring Officer to arrange training for the Member.

The Panel has no power to suspend or disqualify the Member or to withdraw allowances.

3. Composition of the Corporate Governance Standards Sub-Committee

- (i) The Corporate Governance Standards Sub-Committee shall comprise three Members of the Overview and Scrutiny Committee.

- (ii) Political proportionality is not applied for the Corporate Governance Standards Sub-Committee.

4. Quorum

The quorum for a meeting of the Sub-Committee shall be three Members.

5. Frequency of Meetings

The Sub-Committee shall only meet as and when required to hear and determine any allegation(s) against an elected or co-opted Member of the Council and Town and Parish Councils.

The Role of the Council's Monitoring Officer

ARTICLE 11 - Officers

11.4 Functions of the Monitoring Officer

- a) **Maintaining the Constitution** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- b) **Ensuring lawfulness and fairness of decision making** After consulting the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the Full Council if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c) **Supporting the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee.
- d) **Conducting investigations** The Monitoring Officer will conduct investigations into matters and make reports or recommendations in respect of them to the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee
- e) **Providing advice** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Councillors.
- f) **Restrictions on posts** The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.

11.5 Provision of sufficient resources to the Head of Paid Service, Chief Financial Officer and Monitoring Officer

The Council will provide the Head of Paid Service, the Chief Financial Officer and the Monitoring Officer with such offices, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

Complaints Summary: Decisions on Complaints made between 1 April 2018 and 11 February 2019

Complaint No.	Provision of the code alleged to have been breached	Outcome
2018/1	<p>Complaint about Ryedale District Councillor(s)</p> <p>Report of Professor John Raine - Alleged Bullying of Officers by Councillor(s)</p>	<p>Pending.</p> <p>Barry Khan Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer at North Yorkshire County Council was appointed on 23 August 2018 as a Deputy Monitoring Officer to deal with allegations of Bullying of Officers by Councillor(s) contained in the Report of Professor John Raine under the District Council's arrangements for dealing with complaints under the Members' Code of Conduct.</p> <p>The appointment of Barry Khan as the Deputy Monitoring Officer was requested and made further to the meeting of the Corporate Governance Standards Sub-Committee meeting on 19 July 2018.</p> <p>A copy of the Report of Professor John Raine has been supplied to Barry Khan.</p> <p>The District Council's Independent Person (IP) has been alerted to the case and the contact details of the Independent Person have been supplied to Barry Khan.</p>
2018/2	<p>Complaint about Parish/Town Councillor</p> <p>Bringing office into disrepute – posting on social media</p>	<p>Rejected at stage 1 following consultation with IP:</p> <ul style="list-style-type: none"> (i) Postings were not made by person acting as a parish councillor – they were not made in capacity as a parish councillor. They were acting in a private capacity; (ii) Conduct complained of was not serious enough to warrant an investigation and not in the public interest to expend further resources on investigation
2018/3	<p>Complaint about Ryedale District Councillor.</p> <p>Breach of Nolan Principles</p> <p>Bringing office into disrepute – posting comments on world wide web</p>	<p>Rejected at stage 1 following consultation with IP:</p> <ul style="list-style-type: none"> (i) Postings were not made by person acting as a parish councillor – they were not made in capacity as a parish councillor. They were acting in a private capacity; (ii) Conduct complained of was not

APPENDIX 2

		serious enough to warrant an investigation and not in the public interest to expend further resources on investigation
2018/4	Complaint about Ryedale District Councillor. Bringing office into disrepute – posting on social media	Rejected at stage 1 following consultation with IP: (i) Postings were not made by person acting as a parish councillor – they were not made in capacity as a parish councillor .They were acting in a private capacity; (ii) Conduct complained of was not serious enough to warrant an investigation and not in the public interest to expend further resources on investigation
2018/5	Complaint about Parish/Town Councillor Bringing office into disrepute - Claiming a mandate and representing themselves as acting as a parish/town councillor.	Rejected at stage 1 following consultation with IP: (i) The actions were not made by person acting as a parish/town councillor – they were not made in capacity as a parish councillor. They were acting in a private capacity; (ii) Conduct complained of was not serious enough to warrant an investigation and not in the public interest to expend further resources on investigation
2019/1	Complaint about District Councillor Allegedly compromising the impartiality of Officers by lobbying	Pending - under assessment