

## **STRATEGIC SCRUTINY COMMITTEE**

19 January 2023

### **Present:**

Councillor Rob Hannaford (Chair)

Councillors Leadbetter, Allcock, Asvachin, Branston, Harvey, Jobson, Knott, Mitchell, K, Read and Vizard

### **Apologies:**

Councillors Atkinson, Moore, J and Oliver

### **Also present:**

Service Lead City Development and Democratic Services Officer (SLS)

### **In attendance:**

Councillor Emma Morse – Portfolio Holder City Development and Planning

### **33 Minutes**

The minutes of the meeting held on 17 November 2022 and the Special meeting held on 12 December 2022 were taken as read, approved and signed by the Chair as correct.

### **34 St Sidwell's Point**

The Chair responded to an enquiry raised by a Member that the anticipated report on St. Sidwell's Point was not on the agenda this evening as referenced in the last Scrutiny Work Plan. The Democratic Services Officer undertook to keep Members updated on items coming forward. The Chair confirmed that the Director of Culture, Leisure and Tourism had advised that there have been a number of operational issues to deal with, as well as officer time had been focussed on the work for the Council budget and One Exeter Programme, limiting officer capacity to produce a report to meet the deadlines for this meeting. The anticipated report relating to a Scrutiny request covering the contractual and oversight arrangements regarding the St. Sidwell's Point project would be presented at the next meeting on 16 March 2023. Councillor Parkhouse, as Portfolio Holder for Leisure and Physical Activities would also be in attendance to provide an update report to the meeting.

Every effort would be made to ensure that in the future, there was a balanced programme of business for the meeting.

### **35 Declaration of Interest**

No declarations of interest were made by Members.

### **36 Question from Members of the Public Under Standing Order No.19**

No questions from Members of the public were received.

### **37 Questions from Members of the Council Under Standing Order No.20**

No questions from Members were received.

## Portfolio Holder Report for Planning and City Development

Councillor Morse reported on the Planning and City Development areas of her Portfolio and detailed the issues relating to achieving the Council's published priorities, major ongoing programmes of work, issues impacting delivery, financial performance, budget requirements and potential changes being considered.

The Portfolio Holder responded as below to a number of questions submitted in advance of the meeting from Councillor Read during her presentation, with the questions and responses set out in italics. A separate enquiry was also made in relation to the Exeter Design Quality Partnership (EDQP), where it was noted that the web site had been updated to reflect confirmation as in the Portfolio Holder report that the EDQP had been set up.

The Portfolio Holder reported on the following areas:-

- 2022 had been a challenging period in respect of the number of appeals made to the Planning Inspectorate allowed, and a number of consultations were currently taking place.
- the Exeter Design Quality Partnership has been set up to raise the quality of design, with Design Review Panels offering the opportunity to discuss a range of aspects including design of a prospective application. *The Service Lead City Development added that this would offer a unique opportunity to draw together a range of experts to have an informal discussion on larger schemes for the city. The Panels could be used to channel comments through the application process, involving Ward Members, but not include Members of the Planning Committee. It was hoped that some future training could be offered to both Members and officers.*
- the detail of payments in relation to Community Infrastructure Levy (CIL)/Section 106 monies was linked to the individual development, with 15% of the CIL levy going to the community. *The Service Lead City Development stated that the Section 106 contribution was directly related to a development and not a wish list for the wider area or the city as a whole.*
- consultation on the Outline Draft Exeter Plan was nearly complete and she had attended three of the many events held, and the Assistant Service Lead Local Plan and his team had welcomed the opportunity to respond to the public who attended. The results of the consultation will be presented to the Strategic Scrutiny Committee.
- a report on the Article 4 Direction was considered by the Planning Member Working Group and offered an unbiased report on the range of options.
- a joint strategy for planning was being discussed by the Leaders and officers from the five Councils for planning in the Greater Exeter region. The Greater Exeter Strategic Plan (GESP) had not fully progressed, but there was still a duty to cooperate. The City Council had made strong representations to both East Devon and Teignbridge District Councils who had consulted on their Local Plan.
- making better use of brownfield land was important. Living Exeter was part of the Leader's Portfolio, but the Exeter Living team do consult other City Council teams, including Planning.
- if enacted in 2025, the White Paper on planning reform may have an adverse effect on the Local Plan process. *The Service Lead City Development stated that the consultation had been lengthy, creating some uncertainty for planning officers. The Planning team had a new Urban Design Officer so the City Council was well placed to respond to offer consultation responses to Government, as well as engaging with the Design Review Panel.*

- a charge for pre application enquiries would be presented to the Planning Member Working Group, and if pursued, would generate income to invest back into the service.
- the Exeter Liveable Place Making Charter was part of the aims in the Local Plan to encourage a city that is sustainable and healthy and linked to the Living Exeter sites.

The Portfolio Holder responded to advance questions from Councillor Read, with the responses set out below in italics.

**In respect of CIL, how do the receipts compare with budgeted income?**

*It is very challenging to accurately predict CIL receipts because figures are based on the build-out of planning consents, the trajectory for which is outside the Council's control. In 2021, the projected CIL income for 2021/22 was £2,768million. CIL receipts totalled £3.970million. There were two large outstanding debts that the developer had not paid in line with the charging schedule for this year. This was being followed up but had impacted projected receipts for this financial year. The level of CIL would be effected by the current economic climate and that was something to be aware of going forward.*

**In respect of CIL if £3.79m was received why was only £1.2m spent? When is the remainder £2.59m due to be spent and on what?**

*One of the premises of CIL was that it provided a mechanism for funding strategic infrastructure and enabled developer funding to be pooled more easily than through Section106 agreements. This provided much-needed flexibility in how CIL funding was spent. This meant that a longer term view could be taken if CIL funding was received and CIL funding spent were not necessarily balanced in any given year. This flexible arrangement enabled CIL to fund strategic infrastructure which may take some years to come forward. Decisions on future CIL expenditure would be made through a democratic process.*

**Will the amendments to Article 4 include a restriction or ban on Purpose Built Student Accommodation (PBSA's) built in the Article 4 area?**

*The Article 4 review was of Houses in Multiple Occupation (HMO) as opposed to student accommodation specifically. A key reason for the review was to consider the impact of student HMO's in the city. An Article 4 Direction increased planning controls in an area through the removal of Permitted Development Rights. However, an Article 4 Direction could not impose a ban on development and meant that planning permission was required when it otherwise would not be. In the case of the Exeter Article 4, the Direction meant that planning permission was required to change the use of a residential dwelling into a HMO. Although there were implications, the Article 4 did not aim to manage the provision of PBSA. Further policy considerations would be given to student accommodation in the emerging Exeter Plan.*

**What are the number of houses that have been brought back into use from Houses in Multiple Occupation (HMO) to whole homes in each ward for each year that the Article 4 Direction has been in operation?**

*The planning team did not have a consistent data set on this matter although the numbers were likely to be small because of the financial benefits of letting properties as HMO's. Data on the rates of council tax paid by those accommodated in HMO's was not consistent. Areas with an Article 4 Direction focused on areas where students and young professionals reside, but it was acknowledged that a HMO could affect the balance of the community. Any cessation of HMO's could price some individuals out of the city.*

The Portfolio Holder also reported that Councillor Read had sought a response to the Article 4 Direction report being presented to the Planning Member Working Group rather than Scrutiny Committee. She confirmed that as the Portfolio Holder responsible for planning policy, the decisions she made were in consultation with the Leader and Executive, and officers and brought to the Executive and Council for debate. The Article 4 Direction matter was discussed at Planning Member Working Group, and there was an invitation for any Member to attend, and the Chair could invite those Members to speak. The decision to bring any items to scrutiny could be made through the appropriate scrutiny process, but a delay to the current timescales would push any decision on the Article 4 Direction back significantly.

**What is the likely projected CIL income that would be included in the Medium Term Financial Strategy (MTFS) based on the new proposed CIL rates if they are adopted in, say, April this year?**

*Further work was required to project this because the revised CIL rates were still subject to consultation and the slow-down in the housing market would affect the build out of permissions which in turn drives CIL receipts. Revised CIL rates would be unlikely to be implemented until late 2023 and, furthermore, they would not apply to existing permissions. There would therefore be a time lag until their impact is fully felt. This means that it is appropriate to continue using the existing CIL rates to inform the MTFS.*

**How large is the current caseload for planning enforcement and what types of issues has the office had to deal with?**

*The total number of enforcement cases closed last year was 246, which included a large backlog. There was currently 74 open enforcement cases. In the past year three Enforcement Notices had been served, one Listed Building Enforcement Notice, two Section 215 Notices and one Planning Contravention Notice. There was a Listed Building Enforcement Notice and Breach of Condition Notice just approved which would hopefully be issued within the next month. There were currently three Enforcement Notice appeals ongoing with the Planning Inspector, all being dealt with by written representations. The majority of complaints related to minor householder breaches such as fences, extensions and dormers. There were also some change of use to HMO breaches and complaints related to self-contained annexes. Further, there were a number of complaints relating to breaches of the working hours condition imposed on planning permissions and a number of cases on the larger housing development sites for breaches of conditions such as landscaping, trees and drainage.*

*In response to a further comment, she replied that enforcement was not a statutory obligation, but the Enforcement Officer in post had been carrying out an excellent job to clear the backlog along with the dedicated Planning Solicitor, who had also made a valuable contribution.*

*The Service Lead City Development added that the Enforcement Officer role had been very positive and went towards ensuring there was a credible planning system with buildings and developments built in accordance with planning approvals.*

**In relation to the budget over the MTFS what is the budget income and expenditure for the planning service specifically over the last two years and the next three years?**

*A copy of the figures as set out was provided by the City Development's Finance Manager:-*

Cost centre description	Account description	2020/21 Actual	2021/22 Actual	22/23 Forecast	2023/24 Draft Budget
PLANNING	EXPENDITURE	1,206,878	937,622	1,253,110	1,161,110
PLANNING	INCOME	(645,752)	(830,085)	(734,010)	(824,760)
		<b>561,126</b>	<b>107,537</b>	<b>519,100</b>	<b>336,350</b>

### How many posts are to remain unfilled, removed or created in the team in the Medium Term Financial Strategy?

The Portfolio Holder referred to the Service Lead City Development to provide the requested information. He advised the following:-

- a vacancy in Building Control (there was currently no intention to fill this position)
- a vacancy in project management in the Development Management team (an agency member of staff was currently in place)
- a vacancy as part of the new Enforcement post (with the deletion of two other posts)
- two Project Managers (agency members of staff were currently in place)

The Assistant Service Lead Development Management post was filled and they would commence in mid-March 2023.

The Portfolio Holder referred to the difficulties experienced by a number of local authorities over recruiting for planning. The Development Management team were continuing to work along with the Assistant Service Lead Local Plan and the rest of the Planning team, who were a smaller but hard working. They were carrying out a high volume of work and alongside planning applications, the Local Plan, the CIL Review and the Article 4 Direction were all key work areas going forward.

The Portfolio Holder also responded to Members' comments as follows:-

- she agreed with a Member's comments on the coordination and valuable contribution made by the local community, Members and the Council's planning team in respect of recent appeals. Councillor Allcock had made a particularly effective contribution to the Pinhoe Higher Field application and a number of Members suggested compiling guidance could be useful to offer residents in relation to coordinating a public response against an appeal. Councillor Allcock referred to the many good resources available and that maybe some links could be collated. She was happy to suggest examples of existing resources such as guidance such as from the Campaign for the Protection for Rural England.
- the Council was not currently working with Design West. She had spoken to the Portfolio Holder for Communities and Homelessness Prevention in relation to land value being a block to good design. However, there was not an abundance of land that could be built on.
- a Section 106 Officer had only recently been appointed, and had already made a contribution to the work of the Council. *The Service Lead City Development agreed that the postholder was an asset to the Planning team. He would investigate if the information generated on payments could be broken down into wards.*
- a request would be made for a written response for the Member on the allocation of Section 106 monies.

- any Member wishing to raise an issue in their ward in relation to CIL should make contact with the Council Leader initially.
- there had been a variety of responses from the Exeter Plan consultation including from the Exeter Cycling Campaign.
- consideration of any unreliability of public transport in the city, was the premise on which the Liveable Exeter offer of living and working within a 20 minute proximity was made.
- as the Local Plan emerged, the evidence contained in the document had more weight but was not yet tested by the Planning Inspector until it was fully adopted. *The Service Lead City Development advised that there was currently limited weight and any consultation adds to the weight. It is anticipated that a further detailed consultation will be carried out later in the year, and the Planning Inspectorate will take note of that. References will begin to be made to the emerging policy when reported to Committee.*
- the five year land supply will need to be delivered from the day the Local Plan is approved.
- the discussion on the Article 4 Direction was included in the minutes of the Planning Member Working Group which were available to Members.
- the data for the report on Article 4 Direction to the Planning Member Working Group included figures relating to the University. There had been a snapshot of the 25% discount exemption but it did not offer a consistent figure.
- there were 7,000 more students but not a significant increase in HMO numbers. In confirming that the City Council did not build student accommodation on their land, the Planning Committee could only work within the national planning guidance.

A Member stated that the Article 4 Direction had helped the St. James area and he welcomed the review. He suggested consideration of a caveat that PBSA had a more fluid contract.

- PBSA could be expensive, but HMO accommodation offered affordable accommodation for some students eligible for the 25% discount exemption. The requests for HMO accommodation in Article 4 areas had slowed down.
- there were examples of Permitted Development in conservation areas around the country and conservation area with an Article 4 Direction would not prevent work being done, but there needed to be the evidence provided in support. *The Service Lead City Development advised that permitted development was mostly limited to being outside of a conservation area.*
- further information would be obtained about any guidance or financial assistance for the conversion of retail units back into residential from the Assistant Service Lead Local Plan.
- the Portfolio Holder commented on those residents from the neighbouring authorities who travel to Exeter to work, although it was acknowledged the Authority does not gain from any council tax receipts or Section 106 monies from developments on the outskirts of Exeter.
- agency staff had been brought in to resolve a backlog in land charges. *The Service Lead City Development advised that Exeter was now in the top 10 in the country in processing Land Charges requests. Building Control and Land Charges were cost neutral services.*
- the Local Plan offered guidance for Members, officers and the public. In order to meet the necessary housing need, there would have to be consideration of high density buildings to meet the Exeter vision. Exeter City Living had not progressed a site so far and that would come through the democratic process as a planning application.

- responses to a number of prospective White Paper consultations had been made through the Planning Member Working Group. Such responses took significant time and energy for White Papers that did not go forward.
- there were a number of variables for the Liveable Exeter Place making Charter but the sooner that can be implemented the better. It would include large scale applications as well as any developments from Exeter City Living to define the expectation. *The Service Lead City Development advised that the Charter was not yet adopted and the intention was to bring to Members at Planning Member Working Group for further agreement to seek a common approach. It was important to provide a statement that the city was open for business, was a great place to build, and that working with the Exeter Design Quality Partnership will offer a positive experience.*

The Portfolio Holder report was noted.

### 39 **Forward Plan of Business and Forward Scrutiny Work Plan**

The Chair advised that the Scrutiny Programme Board would be considering the work plan of future business for Scrutiny.

Members noted the Forward Plan and draft Scrutiny Work Plan.

The meeting commenced at 5.30 pm and closed at 7.30 pm

Chair