

PLACE SCRUTINY COMMITTEE

12 June 2017

Present:

Councillor Sills (Chair)

Councillors Lyons, Foggin, D Henson, Owen, Mitchell, Wardle and Wood

Apologies:

Councillors Keen and Prowse

Also present:

Deputy Chief Executive, Service Manager, Community Safety & Enforcement, Environmental Health and Licensing Manager, Economy and Enterprise Manager, Principal Accountant (PM), Principal Accountant (MH) and Democratic Services Officer (Committees) (MD)

In attendance:

Councillor Brimble	- Portfolio Holder for Place
Councillor Denham	- Portfolio Holder for City Transformation, Energy and Transport
Councillor Gottschalk	- Portfolio Holder for City Development
Councillor Bialyk	- Portfolio Holder for Health and Wellbeing, Communities and Sport
Councillor Sutton	- Portfolio Holder for Economy and Culture.
Councillor Thompson	
Councillor Musgrave	

20 Minutes

The minutes of the meeting held on 9 March 2017 were taken as read and signed by the Chair as correct.

21 Declaration of Interests

No declarations of disclosable pecuniary interest were made.

22 Questions from Members of the Council under Standing Order 20

In accordance with Standing Order No 20, a number of questions were put by Councillor Mrs Thompson and also Councillor Musgrave on developments, process and the Public Spaces Protection Order. A copy of the questions had been previously circulated to Members, and these, together with the responses from Councillor Gottschalk, Portfolio Holder for City Development, Councillor Denham, Portfolio Holder City Transformation, Energy and Transport and Councillor Brimble Portfolio Holder Place are appended to the minutes.

23 **Public Realm Surface in Sidwell Street**

The Deputy Chief Executive discussed the quality and safety of the footpaths at Sidwell Street, in relation to the interim arrangements for the Bus Station, and that there had been an increased footfall after the closure of the Bus Station. He highlighted where Devon County Council were looking to replace the slabbed footways with tarmac. This had been brought to the Committee because it would impact on deterioration in public spaces and the wider city.

In response to questions raised by Members, the Deputy Chief Executive explained that Exeter City Council were unaware of these issues until work by Devon County Council had begun at Sidwell Street. It was important that Members were informed of the work and to consider inviting Devon County Council to the September meeting to provide an update on the planned work.

Members discussed the best options for the planned tarmac and the importance of warning and informing the public of potential safety issues and areas. It was anticipated that joint work would take place between Exeter City Council and Devon County Council to develop a way forward in terms of future programming and to the public realm maintenance in the city centre.

County Councillor Stuart Hughes Highways Portfolio, and City and County Councillor Andrew Leadbetter (DCC Liaison for Exeter) had been invited to attend the September meeting to update City Members. The Chair recommended Members address issues at the next Scrutiny meeting.

24 **Scrutiny Committee Portfolio Holders' Year End Update - June 2017**

Councillors Brimble, Denham, Gottschalk, Bialyk and Sutton presented the following updates on priorities for Place, City Transformation Energy & Transport, City Development, Health and Wellbeing, Communities & Sport and Economy and Culture respectively for 2016/17.

Place

The Portfolio Holder for Place reported the following updates:-

- An external Recycling Advisor had been appointed for a four month contract for low recycling areas. The engagement work was expected to commence mid-summer 2017;
- Anti-social behaviour such as graffiti issues were being addressed and there was the pending implementation of the PSPO and work with other Local Authorities to improve CCTV surveillance into the city;
- Following the Service Managers retirement, the Parks and open spaces work was moving forward.

In response to Members' questions, the Portfolio Holder for Place responded as follows:-

- Further details of the Recycling Advisor appointment and where the post holder would be working would be confirmed with the Cleansing and Fleet Manager. A written response would be provided to take issues forward;

- He would meet with Councillors Mitchell and Owen and representatives of the St James Ward and Victoria Street concerning recycling issues. Other issues should be reported to the cleansing team;
- The use of seagull-proof bags would be the most efficient means of managing waste to stop its spread and demonstrate that Exeter was an innovative city. He would also view a video of the St James area regarding refuse bags left out by students which had attracted seagulls;
- Exeter University would contribute to the budget to pay for sea-gull proof bags and he stated the importance of remaining fair to all residents. He recommended that Councillors monitor their Wards and contact him.

A Member commented that the door step food waste collection would assist with improving the recycling issues once it had been implemented.

Health and Wellbeing, Communities & Sport

The Portfolio Holder for Health and Wellbeing, Communities & Sport reported the following updates:-

- The implementation plan was being finalised;
- St Sidwells Point and bus station developments were ongoing and it was expected that this complex would become the heart of the city. There would be a need to bring Wonford and Riverside centres up to date;
- The new director would lead on aspiring Exeter to become the most active city in Devon and promote a positive impact on Health and Wellbeing;
- The bus station tenders were over expectation, which led to an Extraordinary Council meeting being held. Questions would be taken to Members' Briefings and a revised budget would be taken to Council. All information would be provided to Members at the appropriate time;
- There were three potential options to move forward - make no changes, spend the budget amount or to revise the budget. The options would be brought to Members to ensure a transparent process.

In response to a Members' question, the Portfolio Holder for Health and Wellbeing, Communities & Sport responded that the Sports England bid update outcome was expected to be completed in June and would be confirmed by Exeter City Futures.

City Transformation, Energy & Transport

The Portfolio Holder for City Transformation, Energy and Transport provided a brief overview of her portfolio and in response to Members' questions, responded as follows:-

- There was no available data at present on the progress of Co Cycles, but information would be provided when known. The scheme was very popular, but it was noted that the bikes couldn't be charged at the Civic Centre. It would also be beneficial to make the bikes more available to staff;
- There had been continuous improvements made to cycle routes which the pavement and cycle path quality had improved;
- Co-Cycle could be invited to the September Scrutiny meeting.

City Development

The Portfolio Holder for City Development reported the following updates:-

- The Government targets for time taken to determine applications were at an acceptable level;
- The Development team were now running at full employment level.

In response to Members' questions, the Portfolio Holder for City Development responded:-

- Though he was new to the Portfolio, he would provide a written response concerning the development of the new St James Neighbourhood Plan;
- Under the CIL Regulation, student accommodation money could be used on other areas of the community;
- He would be speaking to the City Development Manager to ensure that there were improved communications to ensure clarity concerning student accommodation.

Economy and Culture

The Portfolio Holder for Economy and Culture referred Members to her priority list, but no questions were raised by Members.

The Place Scrutiny Committee noted the reports of the Portfolio Holders.

25 **Environmental Enforcement Options**

The Service Manager Community Safety and Enforcement presented a report which sought to identify the options available to provide additional environmental enforcement to support the Clean Streets Strategy. He highlighted the proposed pilot scheme which would use a specialist private contractor to test the impact of higher visibility enforcement on littering and dog fouling. The scheme would last for 12 months and would include education and engagement with the public, using all relevant media in order to highlight the issues of littering and dog fouling

In response to Members' questions, the Service Manager Community Safety and Enforcement responded:

- There would be a contractor selection process where details of officer numbers and deployment times and locations would be discussed and agreed;
- There had been minimal fines since 2010/11 where a total of 619 Fixed Penalties were issued. The fines were for £75;
- An approach would be agreed with the successful contractor to protect the Council's reputation and to provide appropriate means to collect fixed penalty fines
- The 12 month pilot scheme would cover the whole city, to include areas where residents were likely to own more dogs;
- Paid dog walkers would be monitored in the scheme;
- Discussions would be held with the contractor to ensure both littering and dog fouling offences were addressed. Initial exploratory research suggested it would be likely that four officers would patrol in pairs with the Police being made aware of their presence and remit.
- The expectation is that the pilot scheme would incur no cost to the Council.

Place Scrutiny Committee supported and recommended approval by Executive of the following:-

- (1) to undertake a 12 month pilot scheme using a specialist private contractor in order to test the impact of higher visibility enforcement on littering and dog fouling;
- (2) to ensure a sensitive and balanced approach to environmental enforcement through an appropriate operational pre-agreement with the provider; and
- (3) to precede such a scheme with a focused campaign via all relevant media in order to educate and engage residents and visitors on the issues of littering and dog fouling.

26 **Review of Environmental Health and Licensing Statutory Service Plan 2017/18**

The Environmental Health and Licensing Manager presented a report which sought approval for the adoption of the Environmental Health and Licensing Statutory Service Plan 2017/18. The Statutory Service Plan sets out the Council's regulatory function in respect of food safety, health and safety, licensing, environmental permitting and other statutory functions over the forthcoming year. The Food Standards Agency Framework Agreement required the Council to produce a Food Law Enforcement Plan (referred to as the Enforcement Plan). The key aim of the plan was to demonstrate how the Council will fulfil its regulatory obligations in respect of its food safety service. A draft copy of the plan was available on the Council's website, in the Members' Room, or available on request.

The Environmental Health and Licensing Manager highlighted some of the challenges his team had face during 2016/17:-

- The several large fires across the city, and the out of office support provided;
- Service inspections of 618 food businesses representing 99.5% of the total;
- There had been 4,465 Service requests received for food safety, health and safety regulation, infectious disease control, air quality and other service requests. There had been 450 anti-social behaviour cases dealt with;
- The inclusion of CCTV in taxis and the prosecution of four drivers operating Hackney Carriages without a licence;
- The Best Bar None Scheme had won an award for the most innovative scheme;
- Improvements to public communication using new media outlets.

The Environmental Health and Licensing Manager discussed how his team had been raising awareness of child exploitation to increase understanding of this modern day slavery and identify where it could happen.

He discussed several of the priorities for 2017/18, which included the development of a strong community safety partnership, developing a sustainable city, to maintain a high standard in food safety, promoting safer workplaces, enhancing safety of the night time economy, Private Hire and Hackney Carriage Licensing, development of a strong Exeter Business Against Crime (EBAC) Partnership and the implementation of the Public Spaces Protection Order for Exeter City Centre.

In response to Members' questions, the Environmental Health and Licensing Manager:-

- Discussed the future of the help zone, which he was hoping that partners would be able to get up and running from September;
- Discussed the work around modern slavery and child sexual exploitation;

- The new media outlets used for public communications would be the use of social media, raising awareness of education sessions and schemes being delivered by the service.

The Chair and Members expressed their thanks to the Environmental Health and Licensing Manager and his team for their hard work during 2016/17.

The Place Scrutiny Committee supported and requested Executive to recommend approval by Council of the Statutory Service Plan, and the Environmental Health and Licensing Manager be authorised to change the Statutory Service Plan in the light of centrally issued guidance and/or to meet operational needs.

27 **Place Final Accounts 2016/17**

The Principal Accountants (PM and MH) advised Members of any major differences, by management unit, between the approved budget and the outturn for the financial year up to 31 March 2017 in respect of the Place Scrutiny Committee. An outturn update in respect of the Place Capital Programme was also incorporated into this report in order to help provide a comprehensive financial update in respect of the Place Scrutiny Committee Budgets.

The 2016/17 financial year had ended with a deficit of £3,211,221 after transfers from reserves, however £2,198,565 of this variance was due to the way support services were accounted for. The actual surplus attributable directly to Place Scrutiny Committee is £1,012,655 after transfers from reserves as detailed in an appendix to the report.

Details of the schemes completed during the final quarter of 2016/17 were set out in the report along with the overall financial performance of the Place Capital Programme detailed in an appendix attached to the report. The Place Capital Programme showed a total spend of £3,299,147 with £1,264,701 of the programme deferred until 2017/18.

In response to Members' questions the Environmental Health and Licensing Manager responded commented that the Riverside Arches located behind the Riverside Leisure Centre, and had been a location for anti-social behaviour.

The Principal Accountant (PM) commented that he would provide additional information to Members concerning City Wide Property Level Protection.

The Place Scrutiny Committee noted the report.

RECOMMENDED that Members of Place Scrutiny Committee assure themselves that Officers review areas with significant variances and undertake the necessary actions to address the issues that the variances may cause.

28 **Update on the Visitor Strategy 2018 - 2020**

The Economy & Enterprise Manager presented a report which updated Members on progress made with developing a new visitor strategy for Exeter. It was necessary to consult with the tourism industry and business community of Exeter to develop the new visitor strategy, working towards its proposed vision and priorities. She discussed the five priorities detailed in the report.

In response to questions from Members, the Economy & Enterprise Manager advised that the City Centre Strategy was addressing the issue of bus transport to Exeter Quay. Members discussed inviting a representative from Stagecoach to attend a future meeting, to discuss planned bus routes.

Exeter was raising its level of awareness within the UK, especially after Exeter Chiefs winning the Premiership Rugby final. It was agreed to widen the promotion of the city, taking into account Exeter Chiefs recent success and the knock on effect in raising the profile of Exeter.

Place Scrutiny Committee supported the adoption of the vision and priorities for the Exeter Visitor Strategy 2018 – 2020.

29 Pop-Up Shop Space in Exeter

The Economy & Enterprise Manager presented a report which updated Members on the pop-up shop landscape within Exeter and to promote opportunities to help encourage and support new business start-ups within Exeter.

The Economy & Enterprise Manager discussed the Exeter Commercial Property register and updated Members that, in the first five months of 2017, there had been 367 requests and searches received for office, retail and pubs & restaurants in Exeter. This demonstrated that there was a continued demand for space within Exeter for small scale office accommodation, workspace, retail and food & drink. There was a need to introduce additional incubator spaces in consultation with City Development, Corporate Property and the business community to provide new opportunities in the city.

A Member commented on the option of adapting shipping containers into functional shopping premises which was agreed would be a viable option. In response to questions from Members, the Economy & Enterprise Manager responded:

- There was a mix of use of premises across in the city centre, with a proposal to setup a teenage market to demonstrate what help could be given to assist younger people in setting up their own business.
- If Exeter City Council decide to support additional incubator space in the city, business support could be provided as part of the package to new business start-ups support businesses.

Place Scrutiny Committee supported the following:-

- (1) Promotion of the pop-up shop opportunities across the city through the Exeter Commercial Property Register and through social media;
- (2) Development of a business case to introduce additional incubator spaces in Exeter in consultation with City Development and Corporate Estates, to provide opportunities for new office, workspace, retail and food & drink; and
- (3) Research opportunities in developing a Teenage Market in Exeter.

30 Appointment of Legacy Leisure Working Group and Minutes

The minutes of the Legacy Leisure Working Group meeting held on 4 April 2017 were circulated for Members' information, which included future dates of meetings for the year. Councillor Foggin was appointed to serve on the Legacy Leisure Working Group for the forthcoming Civic Year.

Place Scrutiny Committee noted the minutes of the Legacy Leisure Working Group held on 4 April 2017.

31 Task and Finish Scrutiny Membership

The Chair presented the report setting out the Task and Finish Group membership for 2016/17.

The Place Scrutiny Committee noted the report.

The meeting commenced at 5.30 pm and closed at 7.15 pm

Chair

MEMBER QUESTIONS TO PORTFOLIO HOLDER at Place Scrutiny Committee – 12 June 2017

Questions from Councillor Mrs Thompson

(1) Is the Portfolio Holder able to explain how internal amendments to a Planning Consent which change the proposals of the application presented to the Planning Committee and override the public consultation are considered?

- Councillor Gottschalk responded to the question that there were two ways of amending a planning consent. Amendments which were "non-material" were dealt with through an application for a "Non-Material Amendment Application". The Local Planning Authority had 28 days to deal with such an application and there were no requirements to consult anybody.

Material amendments were dealt with by way of an application under Section 73 of The Town and Country Planning Act 1990. The LPA does consult on such applications and should consent be granted it would have the effect of a brand new planning approval. Whether either type of application was determined by officers or the Planning Committee was covered by the general powers of delegation contained within the constitution. In practice many Section 73 applications on major developments were considered by Committee whereas non-material amendments were not.

- Councillor Thompson asked a supplementary question, could the Portfolio Holder define the technical amendment.
- Councillor Gottschalk responded to the supplementary question, explaining that material amendments would have an impact on the external party.

(2) In the event of a breach of a Consent is this a confidential matter between the LPA and the Developer or a matter of transparency for the public domain?

- Councillor Gottschalk explained that the Council treats enforcement complaints confidentially but the complainant was always advised of the reasons for a particular course of action. Details of individual enforcement cases were not therefore in the public domain.
- Councillor Thompson asked a supplementary question to the Portfolio Holder to confirm if enforcement was a private matter.
- Councillor Gottschalk responded to the supplementary question, informing that though enforcement was a private matter, information could be obtained from members of the public upon request.

(3) If there is a breach to the Consent is the breach brought to the attention of the Planning Committee prior to considerations of a S. 73 application - or is the cause of breach allowed to continue and progress?

- Councillor Gottschalk responded that it was not routinely but the expediency of enforcement action may be discussed with the Portfolio Holder/Chair of Planning Committee. If there had been a breach which a Section 73 seeks to regularise, then this may be reported in the officer's report to committee. Although this did not alter the way in which an application should be dealt with. It must be considered on its merits.

- Councillor Thompson asked a supplementary question to the Portfolio Holder about expanding on the resolving issue, and was it the policy of the Council to seek to deliver a more practical approach.
- Councillor Gottschalk responded to the supplementary question by requesting this question in writing.

(4) What is the formal procedure for making a decision to pursue or not to pursue enforcement in event of a breach?

- Councillor Gottschalk explained that the decision on expediency rests with the City Development Manager who may take the advice of the Portfolio Holder and City Solicitor. Formal enforcement action could only be undertaken by the City Development Manager in agreement with Portfolio Holder and City Solicitor.
- Councillor Thompson asked a supplementary question, on whether there was a benchmark for a material breach.
- Councillor Gottschalk responded to the supplementary question by confirming that this was answered as part of a previous response.

(5) If a Certificate B was issued with the first application are these revisited if any amendments are made to the original consent or a subsequent application?

- Councillor Gottschalk responded that it was not in respect of a "Non-Material Minor amendment" but an application under Section 73 needed to include the relevant certificates.
- Councillor Thompson asked a supplementary question, on whether the Certificate B was connected to Planning and would there be an impact?
- Councillor Gottschalk responded to the supplementary question by confirming that there would be no impact.

(6) Could you please confirm (as I understand) The Monkerton Heat Company Limited, company number 09853521 has six representatives listed with one representative from Exeter City Council Planning Department?

- Councillor Denham responded that the Exeter City Council representative was from the City Development team on behalf of the City Council and was one of the six appointed Directors of The Monkerton Heat Company.
- Councillor Thompson asked a supplementary question to request clarification on how the MHC would be operated including funding for when Exeter City Council was the only shareholder and would additional directors to the existing planning officer be appointed in the future?
- Supplementary written response by Councillor Denham: The Development Phase is likely to continue for more than 10 years. Consideration will be given to the appointment of alternative and additional directors towards the end of the development phase. The operation of the company by the City Council has been estimated as certainly less than £10,000 including all officer time.

(7) Could the Portfolio Holder for City Development clarify how the democratic process is implemented to ensure Exeter City Council has no conflict of interest with private development companies please?

- Councillor Denham responded that the Monkerton Heat Company (MHC) exists to administer a contract with Eon to operate the District Heating scheme at Monkerton. It receives from each of the developers a long lease on the ground within which the District Heating pipework runs. MHC in turn grants a sublease to Eon. Once each developer had completed development on their site and completed the head lease, they surrender their shares in MHC. Once all developers had transferred their shares, Exeter City Council remained the only shareholder in MHC and as such had sole control.
- Councillor Thompson asked a supplementary question to enquire that as the development companies drop out, could the City Development Portfolio Holder advise on any future liabilities in relation to infrastructure or satisfactory performance of the heating system in the longer term?
- Supplementary written response by Councillor Denham: The maintenance of the district heating infrastructure is the responsibility of operator as set out in the contracts which run until 2082. The contracts set out the requirements for the infrastructure and plant to be handed over in satisfactory condition at the end of the contract period. At that time the Monkerton Heat Company would have the opportunity to re-let the contract to operate the District Heating System

(8) Could you advise the professional status of the other directors and could you explain how conflicts of interests are avoided?

- Councillor Denham responded that she was not aware of the professional status of all of the other directors. Monkerton Heat Company (MHC) was created to deliver a District Heating Scheme at Monkerton, required by planning policy secured through Section 106 agreements that were binding on the Developers. In this specific regard the developers and Exeter City Council were not conflicted and MHC did not create any conflict of interest with Exeter City Council elsewhere.
- Councillor Thompson asked a supplementary question, to ensure that there was no conflict of interest when receiving applications/ variations from fellow directors of the MHC (should they be directors of development companies) was it transparent there was no conflict of interest by the City Council as per the Constitution?
- Supplementary written response by Councillor Denham: District Heating is a planning requirement and the Monkerton Heat Company is a vehicle that has been created to enable that requirement to be delivered. There is no conflict with other planning controls.

Question from Councillor Musgrave

(1) Are you still confident the imminent implementation of the PSPO will reduce antisocial behaviour without having a detrimental impact on the street community?

- Councillor Brimble responded that he strongly believed in defending the rights of homeless people and rough sleepers. He believed that the outreach work with Julian House was finding a positive way to help these people get the support they need to give them a better life. Shortly after taking up this portfolio, he met with the Environmental Health and Licensing Manager to be briefed on Community Safety and Anti-Social Behaviour issues, including work conducted regarding the Public

Spaces Protection Order (PSPO). He was briefed upon the guidance and protocol that had been drawn up as well as training that he had and continued to undertake with the Police.

As a council we strongly believe in finding positive ways to help people out of a life of homelessness and rough sleeping. However we have to be clear that Public Spaces Protection Order was designed to address anti-social behaviour rather than the issue of homelessness and rough sleeping. As a Council we must address the problems of anti-social behaviour.

In line with the report that went through the committee cycle in January and February, the protocol and training had delivered on Members' wishes to educate and seek rectification to unacceptable behaviour that had a detrimental impact on the city, which the majority of which would not be part of the street attached community.

However as had been the case over the last 12 months, there was a clear mechanism in place to work with those who have complex problems to tackle the root causes through a positive pathway and not just tackle the symptoms displayed through behaviour. As part of the adoption of the PSPO, it was agreed that a report would be presented to Scrutiny to update Members six months after the order was implemented as to its operation and effectiveness in reducing problematic anti-social behaviour it sought to manage, together with any negative or unforeseen impacts that it may develop. In addition Councillor Brimble would also be seeking regular updates from the Environmental Health and Licensing Manager as part of his regular Portfolio Holder meetings.

- Councillor Musgrave asked as a supplementary question, would there be any detrimental impact on the street community and would it affect pulling the PSPO from use?
- Councillor Brimble responded to the supplementary question by informing that the Council had voted to use the PSPO to target anti-social behaviour in the city and would not to focus on the homeless community.