

## **REPORT TO EXECUTIVE**

Date of Meeting: 9 February 2021

## **REPORT TO COUNCIL**

Date of Meeting: 23 February 2021

Report of: Portfolio Holder for Culture and Communities

Title: General Buller Statue Update

### **Is this a Key Decision?**

No

### **Is this an Executive or Council Function?**

Council

### **1. What is the report about?**

This report asks Members to withdraw their support for proceeding with consultation, via listed building consent, for the relocation of Exeter's statue of General Buller.

### **2. Recommendations:**

2.1 In a paper titled General Buller Statue Review which came before Executive on January 12, Members agreed to formally consult with local people, via the planning process, in order that they could formally record their views regarding the possible relocation of the statue.

2.2 Recommendation 2.2 read: That, without prejudice to a final decision on the matter, an application be made for listed building consent for the relocation of the statue to an alternative location. This will provide an opportunity for public consultation on the proposed recommendation by the Task and Finish Group prior to a final determination of the matter by Council."

2.3 The recommendation currently awaits Council approval on February 23. However, since Executive met, Government announced their wish to legislate for an ability to 'call in' and likely overturn any such formal planning decision about a statue, should local views be in favour of relocation. In light of this announcement it is recommended '2.2' be withdrawn and the application for listed building consent for relocation and the formal consultation now not take place.

2.4 All other recommendations in the report remain unchanged.

### **3. Reasons for the recommendation:**

Subsequent announcements by The Rt Hon Robert Jenrick MP, Secretary of State for Housing, Communities and Local Government.

#### **4. What are the resource implications including non-financial resources?**

4.1 There are no additional resource implications.

#### **5. Section 151 Officer comments:**

There are no financial implications arising from the report for Council to consider

#### **6. What are the legal aspects?**

6.1 The Equality Act 2010 public sector equality duty comprises a general duty supported by specific duties. The general equality duty requires public authorities, in the exercise of their functions, to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it; and
- Foster good relations between people who share a relevant protected characteristic and those who do not.

6.2 The statue was erected in 1905 with funding received from around 50,000 members of the public, and dedicated to the (then) City Council. Up until 1974 Exeter City Council's predecessor authority held responsibility for it.

6.3 Legal advice provided by Exeter City Council officers states that following reorganisation under the Local Government Act 1972, the highway function passed to Devon County Council (this actually took place on 1 April 1974) and, as such, ownership of the highway and all attached to it should have passed on to Devon County Council. However, officers from Devon County Council have submitted that this is not the case and that Exeter City Council still owns the site which they state is not on the public highway.

#### **7. Monitoring Officer's comments:**

This report raises no issues for the Monitoring Officer.

#### **8. Report details:**

8.1 In an opinion piece entitled 'We will save our history from woke militants' in the Sunday Telegraph, The Rt Hon Robert Jenrick MP, Secretary of State for Housing, Communities and Local Government, supported the methodology behind Exeter City Council's proposal to formally consult on the relocation of General Buller's statue via a planning process. He said: 'Local people ought to have the chance to be consulted on whether a monument should stand or not.'

8.2 Importantly, he also indicated his strong personal opinion that the correct outcome in nearly all instances would be to 'retain and explain'. He also expressed his wish to enforce that view via legislation.

8.3 On January 17 new laws were announced around items of cultural and historic heritage.

8.4 It outlined pending changes including 'The law will make clear that historic monuments should be retained and explained' and 'The Secretary of State is able to call in any application and ensure the law is followed.'

8.5 The original Exeter City Council recommendation would have led to formal consultation through the planning process. Following these announcements, there is a high likelihood the outcome of a consultation could not be acted on, should it indicate removal to an alternative location.

8.6 Members are therefore asked to delete recommendation 2.2.

**8.7 All other recommendations remain, namely:**

8.7.1 That Executive note the findings of the Scrutiny Task and Finish Group

8.7.2 That temporary information boards be erected near to the statue;

8.7.3 That the Council work with the University of Exeter and Exeter Culture on an arts-based engagement project with residents, through a public art working group that will be established to consider the role of public art in Exeter; in order to create a new public art strategy for the city;

8.7.4 That the Portfolio Holder for Culture and Communities establish a working group to develop an Anti-Racism Strategy for the Council;

8.7.5 That the Corporate Equality and Diversity Group be asked to develop a training and awareness raising programme for staff and councillors on equality impact assessments, and their role in the Council's decision-making process.

**9. How does the decision contribute to the Council's Corporate Plan?**

9.1 The decision will support the priority to meet community aspirations and build great neighbourhoods. It will not waste resource, ensuring value for money.

**10. What risks are there and how can they be reduced?**

10.1 The risks are reflected in the accompanying Equality Impact Assessment.

**11. Equality Act 2010 (The Act)**

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal potential impact has been identified on people with protected characteristics as determined by the Act and an Equalities Impact Assessment has been included in the background papers for Member's attention.

## **12. Carbon Footprint (Environmental) Implications:**

12.1 No direct carbon/environmental impacts arising from the recommendations.

## **13. Are there any other options?**

13.1 The Executive could proceed with the planning application and formal consultation as originally planned.

### **Cllr Amal Ghusain, Portfolio Holder Culture and Communities**

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## **Local Government (Access to Information) Act 1972 (as amended)**

Background papers used in compiling this report:-

Equality Impact Assessment

<https://www.gov.uk/government/news/new-legal-protection-for-england-s-heritage>

<https://www.telegraph.co.uk/news/2021/01/16/will-save-britains-statues-woke-militants-want-censor-past/>

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