

EAST DEVON DISTRICT COUNCIL

Minutes of a meeting of the Scrutiny Committee held at Knowle, Sidmouth on 7 June 2018

Attendance list at end of document

The meeting started at 6.00pm and ended at 9.00pm.

***1 Public speaking**

There were no members of the public present.

***2 Minutes**

The minutes of the Scrutiny Committee held on the 19 April 2018 were confirmed and signed as a true record, subject to the inclusion of the following wording under minute 43 Election report: In response to a question about printing of electoral papers the Returning Officer confirmed that no printing is done in house now.

Prior to the next item, the Chairman welcomed committee members to the first meeting of the new Council year. He stated that committee had said goodbye to Councillors Douglas Hull, John O'Leary, Dean Barrow and Alan Dent and he wished to thank Councillor Dent for all of his hard work as the previous Vice Chair. The Scrutiny Committee also wished to record their thanks to Debbie Meakin from Democratic Services for all her help and advice over recent years. He now wished to welcome a new Vice Chair, Councillor Cherry Nicholas, and new members to the committee, Councillors Eileen Wragg, Brian Bailey, Stuart Hughes and Graham Godbeer. He emphasized the value of Scrutiny in Local Authorities as being a critical friend of Council and Cabinet, as outlined in the Communities for Local Government Committee Report to be considered later in the meeting. He went on to say that the report had underlined the fact that failings of the Mid Staffordshire NHS Trust in 2013 and Rotherham Council in 2015 had indicated the lack of effective challenge by local authority scrutiny committees.

***3 Declarations of interest**

Councillor Graham Godbeer, Minute 49; personal interest – Chairman of Area of Outstanding Natural Beauty (AONB) Conservation Board

4 Tree Team update

The Chairman introduced Charles Plowden as Strategic Lead for Countryside & Leisure, and David Colman as Senior Arboricultural Officer, and invited them to update the committee on progress since the Tree Task and Finish Forum (TAFF) report was produced in 2015.

Charles Plowden stated that the TAFF had been instrumental in providing support and focus for the Tree Team. Although work had increased rather than reduced, they were more effective in dealing with planning applications and giving advice, but still had workload pressures. He outlined that there have been a number of significant changes and improvements made in the last three years all driven through an ongoing systems thinking review process alongside the team continuing to deliver its front line service. The systems thinking process is still ongoing with the team meeting fortnightly to help manage the changes required from the review process and managing a busy daily workload. This approach, though somewhat drawn out, has helped the team to work through the priorities required for improving the efficiency and effectiveness of the way the team works.

The Chairman suggested going through the recommendations in the progress report and invited members to ask questions.

Recommendation 1 Relating to pre planning application meetings. Questions included:

- What was the block to resolving the issue – was it an issue of resources or needing to adapt ways of working in departments?
- Was Scrutiny Committee in a position to assist with unblocking the issues?
- Who enforced conditions in a planning application?

Members expressed surprise that Recommendation 1 had not been implemented after three years but were informed that there had been dialogue between Development Management and Countryside over this period in seeking to get a more streamlined approach to pre-application. It was a reflection of capacity in the Development Management Department, and the volume of applications which had made it difficult to put the changes in place. However it was acknowledged that pre application advice is the preferred route for the majority of planning applications in due course. Members suggested inviting the Service Lead and Development Manager to a future Scrutiny meeting to discuss the plans for putting in a pre-application advice process and the timelines for this work.

Recommendation 2 relating to national guidance. Questions included:

- What national guidance is EDDC considering?
- What is the number of trees felled by EDDC?
- What is the response from EDDC to an application to trim a tree?
- Do Streetscene have to consult with the tree team before taking any action?
- What is the role of local councils?
- Is there a pre application charge for advice and would it be likely to deter people asking for advice?

In response, members were informed that EDDC does not cut down a lot of trees, as the role of the Council is to look to protect and conserve its tree stock through a managed programme of tree maintenance. The tree officer responsible for Council owned trees will consider a number of factors, such as the assessment of a tree's amenity value compared to the likely cost of undertaking work to keep the tree maintained. Once that assessment has been undertaken a recommendation is passed to the Streetscene operational team to undertake works recommended. Countryside and Streetscene teams work closely together and are reviewing working practices and any tree management policies that are not fully aligned. There was a collective pre application advice charge collected by Development Management. This applies only to pre application advice given for Development Management applications. There is no charge for pre application advice for TPO and Conservation Area applications. Councillor De Saram suggested that an officer from Streetscene be invited to a future meeting to discuss the work of the Streetscene tree operations and how they are managing and maintaining the Council's tree stock.

Recommendation 3 Relating to information provided on the EDDC website relating to arboriculture. This has been implemented.

Recommendation 4 Relating to Tree Protection Order (TPO) systems. This has been implemented.

Recommendation 5 Relating to EDDC developing a Tree Enforcement Policy. Questions or comments included:

- A tree enforcement policy is vital to include the screening of new developments and screening of planting. The use of Parish clerks in this process may be helpful.
- Does Development Management support the Tree Team in dealing with enforcement actions?
- The current level of fines imposed in enforcement actions does not deter tree felling.

- Is it possible to give local councils one week's notice of work being planned by contractors, to prevent breaches occurring of a deliberate or accidental nature?
- What happens in the case of trees being on the land of another council, such as Devon County Council (DCC)?

Councils are considered to be responsible landlords and it is not usually felt necessary to apply TPOs to trees on either the Councils' own land or that of another Council.

- In response, members were informed that a large proportion of requests for enforcement actions are not supported due to lack of resources or it not being considered to be in the public interest. Officers confirmed that the Forum had met recently and been made aware of the changes in the way the Tree team is working and that they were positive about the new on line facilities and plans for the future.

On the matter of fines, breaches can be referred to higher courts which could impose higher fines than in the magistrates court, particularly if 'material gain' was involved in the felling of a tree.

Officers stated that implementation of conditions in dealing with a breach was very difficult, and can only happen once the breach has occurred, that is, after the event.

Another approach to ensuring that enforcement occurs would be to have a greater resource within the Enforcement team that would enable more capacity to take action and prosecute where there were breaches of law. The function of enforcement lies within Development Management and so any additional resource would need to bolster this team and not within the Tree Team. The issue of trees being on the land of another council does not preclude EDDC being able to take enforcement action for breaches, although they are not likely to be TPO trees.

Recommendation 6 Relating to Neighbourhood Planning.

Officers stated that the systems thinking review work has identified that greater engagement with our local communities is key to improving the protection, understanding and management of the district's tree stock as there is not enough Council "resource" available to do it alone.

Councillor De Saram confirmed that he was now the Lead Councillor for Neighbourhood Plans at EDDC since the changes agreed at Annual Council.

Recommendation 7 Relating to protection of trees following site development. Comments included:

Tree protection was required during the development of a site and not just following it, since too many accidental breaches seemed to occur.

Officers reported that this is a significant piece of work to undertake and one that has been identified by the Tree Service as a priority area going forward once the majority of the TAFF recommendations are in place and additional capacity is put into the team.

A number of novel ways to secure compliance on development sites are being investigated, which include securing landscape and tree protection bonds. If development deviates from approved plans there would then be scope for retaining part of the bond, for EDDC to implement landscaping or mitigate for damage to retained trees. Tree protection conditions now also routinely require the applicant to commission their own site monitoring.

Recommendation 8 Relating to data capture across the district. The service is content with progress on this recommendation.

Recommendation 9 Relating to arrangements for Councils with Quality Status. There was discussion about the potential for altering the way TPO applications are dealt with. Currently

with (former) Quality Councils the tree team have to pass the applications to the (former) QC's. This adds time and work into the process as the Parish Council usually agrees with the Tree Officer's report. It was discussed that removing this might save time. Cllr Barratt commented that Sidmouth TC did not deviate from the Tree Officer's advice.

It was considered that no progress had been made on this.

Recommendation 10 Relating to the development of a Tree Strategy for EDDC.

Officers reported that a Tree Strategy is the top priority for the Tree Team because it would rationalise all the issues discussed and outcomes to be achieved.

Recommendation 11 Relating to public awareness of trees and their value within the environment. Questions and comments included:

- Councillor Godbeer expressed surprise that there was no mention of AONB throughout the document, since 66% of East Devon fell within AONB. Officers confirmed that both AONBs are actively engaged in tree related issues such as impacts of Ash dieback, sustainable woodland management, woodland products etc and are an important partner in helping to raise the profile of the importance of the district's trees within the landscape.
- What was the number of trees in East Devon affected by ash dieback? Officers confirmed that there was a tree population of millions in the district with ash trees being approximately 20% of that population. The district had the largest ash population within Devon and the impact of the disease will be considerable on the landscape.
- Was there ongoing liaison between the Tree Team and the Tree Contractor Forum? Officers confirmed that the Forum had met recently and been made aware of the changes in the way the Tree team is working and that they were positive about the new on line facilities and plans for the future.

The Chairman thanked Charles Plowden and the Tree Team for their report and attendance at the meeting.

RECOMMENDED to Council

1. Scrutiny Committee are concerned that a large proportion of requests for enforcement actions from the Tree Team are not agreed and accordingly recommend that Council allocates greater resources to the enforcement team to improve the number of enforcement actions implemented.

RECOMMENDED to Cabinet

2. That greater liaison is encouraged between the Development Management Team, Legal Team and the Tree Team in order to implement improvements through the systems thinking process, including pre application processes and enforcement actions.
3. That the Development Management and Legal Teams (with technical support from the Tree Team) investigate effective ways to monitor the future protection of trees when sites are developed, including the securing of landscape and tree protection bonds, to secure compliance and ensure enforcement actions are implemented.

RESOLVED that

1. The Scrutiny Committee invite Service Leads from Development Management and Streetscene, and the Conservation Officer to a future meeting to discuss how they will implement the outstanding recommendations agreed by the TAFF in 2015.

5 Effectiveness of local authority overview and scrutiny committees

The Chairman stated that he saw no advantage in waiting until new guidance is published by the Government later this year.

Anita Williams as Legal Advisor, pointed out that within the Terms of Reference for Scrutiny Committee within the EDDC constitution, the committee already has powers to go to Council if they wish to do so. To specify that it wishes only to go to Council would effectively reduce the opportunities for the committee to refer items since Council meets less frequently than Cabinet.

Clarification was given that this meeting was only concerned with Scrutiny Committee and not Overview.

The committee considered the report.

In relation to Recommendation 1a) the committee wanted the constitution to be clarified to the effect that most recommendations would go to Full Council unless there is a matter of such urgency that the Committee would decide that the next meeting of Cabinet is more appropriate. This was agreed unanimously.

In relation to Recommendation 1b) the committee agreed unanimously that members of Cabinet should only participate by invitation of the committee, making the distinction between participation and attendance.

In relation to Recommendation 1c) the committee considered that they already had access to information they required.

In relation to Recommendation 1d) the committee was content that the Democratic Services Manager supported their work and that a Legal Advisor would be present in a Politically Exempt Role.

In relation to Recommendation 1e) the committee discussed ways in which the public and service users could play a role in the scrutiny process and how to encourage this. Providing notice to the public that items were going to be discussed in advance was put forward, as was the need to explore how IT could be used to support meetings if they were not held at the Knowle or in a council venue with equipment available. This recommendation was endorsed by the Chairman and agreed by a majority.

In relation to Recommendation 2, the committee did not express a view.

In relation to Recommendation 3, the committee was advised by the Legal Advisor that the council does not record the time taken to perform specific functions, and agreed to move on from this item.

In relation to Recommendation 4, the committee was advised that the role referred to in the CLG committee report would be like a Statutory Monitoring Officer role more applicable within a County Council structure, or a dedicated independent role at senior management team level. Given the discussion above in relation to recommendation 1d) the committee did not express a view.

In relation to Recommendation 5, the committee decided not to express a view.

In relation to Recommendation 6, the committee discussed the principle of being able to require rather than invite the attendance of other organisations providing services to local residents. This recommendation was endorsed.

The issue was raised in relation to how Scrutiny could be involved when councils are tendering contracts with external bodies which could include requirements to ensure transparency and accountability.

The Legal Advisor advised that this would be an issue for Overview Committee at a negotiation stage, and if a problem arises it would then become a Scrutiny issue. Councillor Godbeer confirmed that Overview would look into this and associated issues of how to make commercial companies accountable. It was discussed that it would be very difficult commercially to include a requirement in all contracts that contractors agreed to be subject to attending the Council's Scrutiny Committee. There is more interaction with regard to the larger contracts, such as the Waste Contract where contractors are experienced municipal suppliers but small suppliers are likely to resist.

RECOMMENDED to Cabinet

1. That the constitution should be amended to the effect that recommendations would be referred from Scrutiny Committee to Full Council unless there is a matter of such urgency that the Scrutiny Committee decides that the next meeting of Cabinet is more appropriate.
2. That the constitution be amended to the effect that members of Cabinet should only participate by invitation of the committee, making the distinction between participation and attendance.

RESOLVED that the committee explore ways in which the public and service users could play a role in the scrutiny process and how to encourage this through such mechanisms as giving notice of items in advance and using IT solutions.

- *6** **Quarterly monitoring of performance – 4th quarter 2017/18 January to March 2018**
Karen Jenkins, Strategic Lead for Organisational Development and Transformation gave a [presentation](#) for this item.

After the presentation discussion included the following points;

- The snapshot with headline statistics is very useful to take to Parish Councils.
- Unfortunately, Town & Parish Councils rarely have the equipment to show presentations.
- Councillor Nicholas confirmed that she would be taking on the role of looking at the Performance Monitoring reports in advance of Scrutiny meetings in future, and she outlined a number of concerns at present. For example, the term, 'On Track' did not seem to have a useful meaning without a start or end date indicated.
- Stating that 93% of invoices were paid in 10 days raises a number of queries about how many invoices this related to, how much money was involved, what was the value of the outstanding 7% and the reasons for non-payment.

In response, Karen Jenkins referred to the existing system used by EDDC, SPAR, which was very inflexible but would be replaced. An IT project to facilitate this was scheduled to commence in March 2019.

The Chairman suggested at 8.40pm that further discussion on this item be deferred to the next meeting.

***7 Forward plan**

The forward plan was discussed.

It was proposed that members consider requesting reports from Portfolio Holders and inviting them to attend meetings of the Committee throughout the year.

It was also suggested that given that there are a number of Service Plans, Committee could schedule a review of the plans with their associated budgets in advance of the Joint Budget meeting with Overview in January 2019, when there was always too much information to consider in one meeting. In this way, members could become familiar with budgets related to specific services well in advance of the meeting to consider the overall council budget. Members were also invited to suggest items for the Forward Plan alongside issues which may be referred from Cabinet or elsewhere.

Suggestions from members for topics for the Plan included the following;

- Charges for Fly tipping
- Broadband issues
- Community Asset Transfer – this will be picked up at Asset Management Forum on 14 June, with consideration being given to the development of a Policy within the next 6 months
- How health Authorities engage with EDDC and Local Planning Authorities – Councillor Ranger is to send information about a specific issue to the Deputy Monitoring Officer.
- Street trading was suggested as a topic, and would be added to the items to be scoped.

The Chairman reminded members that before items go on the agenda they needed to be scoped which needed the involvement of members and not just left with officers.

An update on the Elections Report was to be scheduled for October.

RESOLVED that the committee would ask the Democratic Services Manager to draft a paper with proposals for facilitating a review of EDDC service plans by both Scrutiny and Overview Committees, separately at meetings throughout the year but in parallel to reflect their respective perspectives on the same functional areas, in advance of the Joint Budget meeting in January 2019. Consideration to be given to the requirement for officer representation at such meetings and how the committee findings would be brought together.

Attendance list (present for all or part of the meeting):

Scrutiny Members present:

Brian Bailey
Bruce De Saram
Cathy Gardner
Roger Giles
Graham Godbeer
Stuart Hughes
Bill Nash
Cherry Nicholas
Val Ranger
Eileen Wragg

Other Members

David Barratt
Alan Dent
Jill Elson
Tom Wright

Officers present:

David Colman, Senior Arboricultural Officer
Sue Howl, Democratic Services Manager
Karen Jenkins, Strategic Lead – Organisational Development & Transformation
Charles Plowden, Service Lead – Countryside & Leisure
Tabitha Whitcombe, Democratic Services Officer
Anita Williams, Principal Solicitor & Deputy Monitoring Officer

Apologies from Scrutiny Members:

Maddy Chapman
Simon Grundy
Darryl Nicholas
Marianne Rixson
Eleanor Rylance

Apologies from Non – Scrutiny Members:

Mike Allen
Geoff Jung
Pauline Stott
Ian Thomas

Apologies from Officers:

Henry Gordon-Lennox – Strategic Lead - Governance & Licensing

Chairman Date.....