

EAST DEVON DISTRICT COUNCIL

Minutes of the meeting of Scrutiny Committee held at the Council Chamber, Blackdown House, Honiton on 7 March 2019

Attendance list at end of document

The meeting started at 6.00 pm and ended at 7.37 pm

51 Public speaking

There were no members of the public present.

52 Minutes of the previous meeting

The minutes of the Scrutiny Committee held on 7th February were confirmed and signed as a true record.

53 Declarations of interest

Councillor Roger Giles – Minute 57, Fly tipping
Type of interest – Personal interest
Reason – Involved in RIO in Ottery St Mary

Councillor Stuart Hughes – Minute 57, Fly tipping
Type of interest – Personal interest
Reason – Member of Devon County Council

Councillor Graham Godbeer - Minute 58, Quarterly Monitoring of Performance
Type of interest – Personal interest
Reason – Daughter is the manager of a Job Centre in Minehead

Councillor Pauline Stott - Minute 58, Quarterly Monitoring of Performance
Type of interest – Personal interest
Reason – Owns a motorhome

54 Matters of urgency

The Chairman stated that an issue had arisen from the meeting of Cabinet the previous evening, and he had accordingly decided that it would have to be raised as a matter of urgency due to the timings of the two meetings involved.

At the Scrutiny Committee meeting on 7 February, four recommendations were referred to Cabinet and discussed on 6 March. At the Cabinet meeting it was resolved that the recommendations would not be accepted. The Chairman said that the final recommendation from Cllr Hughes about a post appeal panel may have been accepted but was not clear.

The Chairman was particularly concerned about the restrictions caused by having a short call-in period. He stated that at EDDC most of the decisions are made by Cabinet members and Portfolio Holders which is a small proportion of all councillors. Call-ins are an important aspect of the checks and balances within the decision making process and allow other non-cabinet members to participate in the process. They are also a rare occurrence.

Following discussion at Cabinet, Cllr Thomas had suggested that training for Councillors might be helpful.

Scrutiny members were disappointed with this outcome, particularly because call-ins were infrequent.

Cllr Wragg stated that she had initiated the suggestion to have a call-in on the specific issue discussed at the last Scrutiny Committee because she was not getting information and answers to questions she was putting to officers. It was not a trivial matter and involved a potentially large sums of money. The Chief Executive, Mark Williams, had informed those supporting a call-in that it could be discussed at Scrutiny Committee but not called-in.

Cllr Bond stated that the Strategic Lead for Governance & Licensing and Monitoring Officer, Henry Gordon-Lennox, had addressed the issue at Cabinet and stated that the Portfolio Holder decision in the case concerned had been called in correctly, but the amount of money involved was too small to warrant the call-in.

Committee members queried whether the recommendations put to Cabinet and not accepted, could be re-presented and go to Council in order for a debate to be had on the issues raised. Cllr Godbeer suggested that the issue could be discussed at Council if was raised as a called minute.

During the discussion some members wanted the timescale for call-ins to be clarified. Others commented that they had no experience of a call-in since being a councillor and because so few decisions were called-in.

The Chairman stated that he was not confused about the issues relating to call-ins, and considered that the conditions for call-ins were too restrictive. Henry Gordon-Lennox had commented at Cabinet that if the process was extended from five days to ten, it would not be helpful.

Cllr Chapman stated that the message given to members changed throughout the process of dealing with this issue, having initially being told that they were out of time, and then being told by Mark Williams that the call-in was in time. She went on to query that if members supporting the call-in were not out of time, then what was the position and what course of action were they able to pursue.

In relation to the recommendation that in all future cases the Legal Services Team should be involved, Henry Gordon-Lennox had stated that it was already involved in all cases.

The Chairman said that in the case under discussion, the Scrutiny Committee had heard evidence that this was not the situation, and in other cases that assistance from the Legal Team was optional, and members were concerned that there may be many other similar cases. The officer who had dealt with this case had indicated that there may be many similar cases which could arise in future.

The Legal Advisor, Anita Williams, stated that a longer call-in period would impact on all decisions and not just those that were called in.

Cllr Stott confirmed that particularly in cases related to housing, delaying significant decisions could have a considerable impact, such as the loss of a potential house purchase.

The Chairman stated that Mark Williams had informed members at Cabinet that the correct procedure had not been followed before it came to members.

Cllr Wragg pointed out that there were a number of principles at issue. This case did not appear to have been handled correctly. She referred to the estimated value of the property involved and that the potential profit from its sale would have allowed the loan from EDDC to be repaid.

Cllr Bond asked Anita Williams to explain the legal position if they were told the amount was too small to fulfil the criteria for a call-in, but all Portfolio Holder decisions are circulated to members containing a suggestion that they can be called in, however, if the amounts involved are small then they cannot be called in and she considered this to be confusing and wasteful of everyone's time and effort. Cllr Bond queried whether it would

not have been better to have made the decision and not informed anyone rather than be in the current situation.

Anita Williams outlined that the call-in was successful in terms of timing and procedure followed, but an exemption existed relating to the amount of money involved, and that in this case it was under a certain amount. She stated that it was the case that all Portfolio Holder decisions were published and that a number of those would not be capable of being called in because their values were under the exemption amount. She advised that if these decisions were not published there would be questions regarding the transparency of the processes used; she also stated that there is a standard template for Portfolio Holder reports and this contains a box regarding call in as standard.

Cllr Chapman wanted to know in cases where money was being waived, whether the Council had a limit on how much they would be prepared to waive, since even if they were low individual amounts, it would soon add up significantly.

Following further comments the Chairman asked the committee how it wanted to proceed on this issue.

RESOLVED;

- 1) That the issue of Call-ins would be put onto the Scrutiny Committee Forward Plan and discussed in further detail at a meeting following the elections, with a view to re-presenting recommendations for changes to the process in future, and
- 2) That the Scrutiny committee would request more information in relation to the waiving of money in cases where people were in situations of being asset rich but cash poor.

55 **Confidential/exempt item(s)**

There were no items that officers recommended should be dealt with requiring the exclusion of the public or press.

56 **Decisions made by Cabinet called in by Members for scrutiny in accordance with the Overview and Scrutiny Procedure Rules**

There were no decisions called in.

57 **Fly tipping**

The Chairman confirmed that Cllrs Tom Wright and Marcus Hartnell, as Portfolio Holder and Deputy, had been invited to the meeting but were unable to attend. Cllr Rylance had particularly wanted this issue raised but was also unable to attend the meeting. Andrew Hancock confirmed that he and Cllr Wright had met Cllr Rylance to discuss the issues that she had raised.

The Service Lead for Streetscene, Andrew Hancock, was in attendance and had provided a number of reports which summarised the situation in East Devon and provided comparisons to the national average, as well as enforcement action taken by EDDC.

Andrew Hancock stated that Fly tipping in East Devon is not a large-scale issue compared to the national picture, however, the Council takes pro-active steps to tackle it. The graphs circulated with the agenda papers show that fly tipping levels are low (when compared to the national average. Between 2013 – 2017, the national average was 2700 incidents, whilst EDDC for the same period was 533.), and the overall trend is decreasing. A slight decrease can be seen in both graphs provided.

Andrew explained that the public report fly tips via the Council's Customer Service Centre. It is then logged onto the LAGAN system for action by the REACT team. EDDC cleans up fly tips on average within 3 days. Streetscene has a team of five operatives (REACT) who are responsible for all fast road litter picking and fly tipping clearance. They bag any evidence they find and forward it to the Environmental Health team who then investigate and take the appropriate action. The REACT team spends around 40% of its time on fly tipping, costing EDDC approximately £55k p.a.'

Whenever EDDC is able to it takes enforcement action where evidence leads to the perpetrator. The waste offences spreadsheet show how many FPNs have been issued for this. EDDC has taken 75 enforcement actions since 2015, equating roughly to 5%.

If caught, perpetrators are charged for the cost of removing the fly tip. Unfortunately, there is usually little evidence, since fly tips tend to occur in isolated places. Covert surveillance via RIPA (Regulation of Investigatory Powers Act 2000) is limited, and the ability of Councils to take more enforcement actions are limited legally, for example, by decriminalisation of offences such as littering.

Andrew stated that social media is used to seek the public's assistance with reporting fly tips, and successful prosecutions resulting in fines result in EDDC issuing a press release. Environmental Health undertake the investigations and enforcement actions. Cllr Hughes asked about abandoned vehicles which were reported to Devon County Council but required action by district councils. Andrew confirmed that this was not a big issue for EDDC with approximately 200 incidents each year. Once again, the powers for a Council to deal with them were restrictive. A vehicle is often not abandoned and then EDDC is unable to intervene and it becomes a highways authority (Devon County Council) problem. A vehicle can be determined as being abandoned if it is not taxed, in which case the DVLA will support actions taken.

In the case of vehicles being abandoned and removed, they would be scrapped if the value is under £1000, or if more than this amount they would be stored temporarily before a contractor scraps them. Costs cannot be recovered from previous owners because they often dispute ownership, and costs to use bailiffs by EDDC would not be covered by the actual costs recovered.

The Chairman went on to refer to the Re-use credit scheme administered by Devon County Council (DCC), on behalf of The Devon Authorities Strategic Waste Committee (DASWAC) which had been running for 22 years. DCC were currently consulting on a number of future options, which included; scrapping the scheme altogether; continuing to run it as it is presently, or continuing to run it in a different way. Cllr Wright is the Vice Chairman of DASWAC currently.

In response to questions from committee members, Andrew stated that if the scheme was scrapped, it was unlikely to increase fly tipping in East Devon due to the different demographics of people involved. If removal charges were scrapped, Andrew stated that this would be unlikely to reduce fly tipping, since the majority of fly tipping was commercially based or related to organised crime. However, he said that the scheme was beneficial.

Andrew reminded members that fly tipping was a crime, and that monies from Fixed Penalty Notices or fines went back into the budget of EDDC and would help to offset the costs of collection.

RESOLVED

That the Scrutiny Committee

- 1) Thanks Andrew Hancock for his presentation and the work of the team involved in dealing with fly tipping

- 2) Responds to DCC on their Consultation about the Re-use Credit Scheme, recognising the positive benefits of the scheme and supporting its continuation. (The consultation period runs from 25th February until 5th April).

58 **Quarterly monitoring of performance - 3rd quarter 2018/19 October to December 2018**

Cllr De Saram wanted to recognise the achievement of delivering quality green space and wildlife habitats alongside new development as an important action which should continue (Council priority 1).

The Chairman brought members attention to performance indicators showing a status of concern.

Under Council priority 4, days taken to process new Housing Benefit claims, members were concerned about the length of time this was taking due to Universal Credit claims taking so long and being handed to the Job Centre to process which had extended the time to about 5 weeks.

Under Service Plan objectives – Priority 4, members were concerned about the Building Control targets which were not currently being met, and the lack of signage in Exmouth for people with motorhomes and campervans to get to off street car parking, due to work done on flood defences.

Cllr Hughes suggested that this latter item be raised at the next HATOC (Highways & Traffic Offences Committee) meeting on 12th March where Cllr Stott represents EDDC.

RESOLVED

That this Committee

1. recognises the achievement of the Council Action under Council Priority 1 – Encouraging communities to be outstanding, by delivering quality green space and wildlife habitats alongside new development, and supports the continuation of efforts to maintain this.
2. Records its concerns about the delays in processing new Housing Benefit claims which can have a detrimental effect on vulnerable claimants.
3. Express concerns that Building Control targets have not been met, creating a significant shortfall in the budget, and request information be provided on;
 - a) How the target was agreed, and
 - b) What will be done to address the issues and increase the annual fee surplus as projected

RECOMMENDATION to Cabinet

1. Refer the matter of signage in Exmouth for people with motorhomes and campervans to the HATOC committee on 12th March 2019 via the EDDC representative, Cllr Stott.

59 **Scrutiny forward plan**

Following the referral of an issue from DMC involving South West Water, they would be invited to attend the next Scrutiny Committee meeting on 4th April. An invitation would also be extended to Ed Freeman in the Planning Service.

Broadband would also be discussed on 4th April and an invite extended to Gigaclear.

The Annual Report would be discussed on 4th April, with themes identified prior to the Annual Council meeting on 22nd May.

The Police & Crime Commissioner would be invited to attend on 4th April and asked to provide updates on the following;
County Lines – relating to drug related deaths within the District
Policing numbers and visibility
CCTV

Attendance List

Councillors present:

R Giles (Chairman)
Chapman
G Godbeer
S Hughes
B de Saram
E Wragg

Councillors also present (for some or all the meeting)

S Bond
P Stott

Officers in attendance:

Andrew Hancock, Service Lead StreetScene
Susan Howl, Democratic Services Manager
Anita Williams, Principal Solicitor (and Deputy Monitoring Officer)

Councillor apologies:

C Nicholas
B Bailey
C Gardner
S Grundy
V Ranger
M Rixson

Chairman

Date: