

ENVIRONMENTAL SCRUTINY COMMITTEE

9 DECEMBER 2014

Present: County Councillor Mitchell(Chairperson)
County Councillors Clark, Davis, Lomax, McKerlich and Merry

Apologies: Councillors Hyde and Walsh

39 : APOLOGIES FOR ABSENCE

Apologies were received from Councillors Hyde and Walsh.

40 : DECLARATIONS OF INTEREST

No declarations of interest were received.

41 : CABINET RESPONSE TO A JOINT REPORT OF THE ENVIRONMENTAL SCRUTINY COMMITTEE AND THE COMMUNITY AND ADULT SERVICES SCRUTINY COMMITTEE ENTITLED 'CONTROL OF DANGEROUS DOGS IN CARDIFF'

The Committee received a report on the Cabinet's Response to a Joint Environmental Scrutiny Committee and Community and Adult Services Scrutiny Committee report entitled 'Control of Dangerous Dogs in Cardiff'. The Committee was asked to consider the Cabinet's response and agree a way forward.

The report provided a brief summary of the Joint Committee's and the Cabinet's previous consideration of this item. Members were advised that a task and finish inquiry had been established to review the potential impact of the Anti-Social Behaviour, Crime and Policing Bill would have on the managing of dangerous dogs in Cardiff and the implications for the authority. The terms of reference of the inquiry were as follows:

- Who holds the responsibility for managing dangerous dogs in Cardiff
- The resources allocated to manage dangerous dogs in Cardiff
- The current legislation used to manage dangerous dogs in Cardiff
- The proposed legislation being created to manage dangerous dogs
- The scale of the dangerous dogs problem in Cardiff
- The merits of the recently shelved 'Control of Dogs (Wales) Bill' compared with those of the 'Anti-Social Behaviour Crime & Policing Bill'
- Best practice for dealing with dangerous dogs
- Educational and partnership approaches for managing dangerous dogs

Members were advised that the Cabinet accepted 18 of the 20 recommendations made by the Task and Finish Inquiry, with 2 recommendations partially accepted.

The Chairperson welcomed Councillor Bob Derbyshire, Cabinet Member for Environment; Jane Forshaw, Director Environment; and Will Lane, Operational Manager – Domestic Services Regulatory to the meeting. Will Lane was invited to deliver a brief presentation on the Cabinet's response to the Task and Finish Inquiry

report. Councillor Dilwar Ali was also invited to make a statement. Councillor Ali welcomed the Cabinet's positive response to the Task and Finish Inquiry recommendations.

The Committee was asked if they wished to comment, ask questions or seek clarification on the information received.

- The Committee were pleased that the Cabinet had accepted the Inquiry's recommendations. However, Members acknowledged that the authority's powers with regard to controlling dangerous dogs were limited.
- Members discussed Public Space Protection Orders and Community Protection Notices. Officers advised that, in the event of a dangerous dog being uncontrolled, a Community Protection Notice would need to be served by Cardiff Council Housing on the dog's owner. The Committee sought clarification on the issue of communal entrances. Officers advised that the issue of communal entrances to properties is definitely covered in the DEFRA's Community Protection Notice Guidance. Jane Forshaw stated she was happy to include this item on the agenda for the next Directors of Environment Group meeting.
- The Committee noted that a press release had accompanied the publication of the Cabinet's response to the task and finish inquiry report. Members requested that posters on other publicity materials be produced and be displayed in prominent positions in Council buildings. Members also suggested that this issue could feature in a future edition of Capital Times.
- The Committee asked officers for updates on the reinstatement of a dog licensing scheme and the integration of the three databases for dog microchipping. Members were advised that the requirement for a dog licence would not be introduced in Wales until 2016 at the earliest. Officers stated that the microchipping databases were an important tool and the system needed to be as robust as possible. The Committee requested that the issue of a universal dog microchipping database also be discussed with Directors of Environment Group. Jane Forshaw stated she would be happy to raise the matter at the next meeting.

AGREED – That the Chairperson write on behalf of the Committee to the Cabinet Member for Environment with the following observations of the Committee:-

- Members welcomed the positive response to the report, particularly as 18 of the 20 recommendations were accepted and two were partially accepted.
- The Committee expressed an interest in finding out more about how Public Space Protection Orders will be applied under the new anti social behaviour, for example, can they be equally applied to open public spaces and flat stair wells. The Director for the Environment volunteered to ask Legal Services for advice on the matter; it was felt that opinion should be available quickly as DEFRA had probably provided guidance on the matter.
- The Committee felt that it would be useful to have a report which summarises the changes created by the new anti-social behaviour legislation and which is

applied to the management of dangerous dogs. As the legislation and its application can vary in Wales when compared to England, the Members felt that the report should provide practical guidance for people living in Wales.

- The Director for the Environment volunteered to raise the matter of how the new legislative changes for managing dangerous dogs will be applied in Wales at the next South Wales Environment Directors' meeting. This could raise the profile of the problem across the region and help identify the best practice being applied in the different parts of South Wales. The Committee welcomes this offer and looks forward to the feedback from the meeting.
- The Committee would be grateful if the Director for the Environment would ask the other authorities represented at the South Wales Environment Directors' meeting if they would be willing to support the idea of developing a universal dog chipping database in Wales. Members felt that lobbying for a Welsh dog chipping universal database would be far more effective if a large number of authorities were supportive of the idea.
- The Committee support of the proposed 10 minute rule and reintroduction of a dog licensing policy in the United Kingdom. Members feel that this would improve the control of dog ownership, encourage responsible dog ownership and create a new income stream which could be used to fund educational initiatives to support responsible dog ownership.
- Members felt the memorandum of understanding between the Council and South Wales Police on the management of dangerous dogs should be reviewed and updated following the changes to anti-social behaviour legislation. The Committee would be grateful if the Cabinet Member could inform the Committee of any proposals to review this working agreement and any proposed changes.
- An officer explained that a working group has been set up to review the impact of the changes to the anti-social behaviour legislation. Members would be grateful if the Cabinet Member could inform the Committee of the groups findings (particularly those which impact on the management of dangerous dogs in Cardiff) once they are complete.
- During the meeting the Committee was told that there were no additional resources for dealing with the new anti-social behaviour proposals for managing dangerous dogs in Cardiff. Much of this new work will be addressed within the Regulatory Services Collaboration which is in the process of being developed between Cardiff, the Vale of Glamorgan and Bridgend. Once working arrangements are finalised Members would be grateful if the Cabinet Member could inform the Committee as to how the Regulatory Services Collaboration proposes to manage the additional workload and if new efficiencies / economies of scale are sufficient to address the current income shortfall.

42 : PLANNING SERVICE REDESIGN - MEMBER UPDATE

The Committee received a report on the progress and impact of the Planning Service Redesign. Members were advised that the issue for first highlighted to the Committee during its consideration of the 2014/15 Budget Briefing Report in November 2013 when concerns were raised about aspects of performance within the

Planning Service. The Committee was briefed on the outline proposals at the budget scrutiny meeting in February 2014. The proposals included:

- An increase in income of £512k for additional fee/charging income for development management and pre application income;
- Total budget savings of £903k from the service as a whole which included £348k from a restructure exercise.

In March 2014 the Cabinet Member for Strategic Planning and Transport agreed to provide an update on the restructuring of the planning service.

The Planning Service Redesign was undertaken to address a number of issues and priorities, including:

- addressing the budget savings that the Council has to achieve;
- reshaping services to make sure that they effectively deliver fast changing corporate priorities and aspirations
- enabling improvement in benchmarking
- improving how the service engages, communicates and is managed
- introducing new ways of doing things to make the working environment sustainable and successful
- help Cardiff achieve its full potential as the more liveable European Capital City

The report provided details of the revised Planning Service structure. Services was based around the following teams:

- The Strategic Policy Team
- The Strategic Development Management and Placemaking Team
- The Non Strategic Development Team
- The Building Control Service

Members were advised that the redesign exercise was anticipated to be completed by late 2014/early 2015. A number of appointments still needed to be made to complete the new structure. Copies of the new structure charts were appended to the report.

It was projected that the Planning Service would deliver savings of £903k during 2014/15. To date £568k savings had been achieved with a projected outturn of £816k, resulting in a shortfall in savings of £87k; the report identified where the shortfall in savings were. The report also contained details of the three main performance indicators for the Planning Service which were broadly being achieved.

The Chairperson welcomed Councillor Ramesh Patel, Cabinet Member for Transport, Planning and Sustainability, Councillor Michael Michael, Chair of the Planning Committee and officers from the Strategic Planning, Highways, Traffic and Transport Directorate. Phil Williams, OM, Strategic Planning and Development Management, was invited to deliver a presentation on the Planning Service Redesign.

The Chairperson invited the Committee to comment, raise questions or seek clarification on the information received. Those discussions are summarised as follows:

- Officers stated that the overall budget for the services was £7 million, just under £2 million of this budget was funded from income.
- Member requested further details of the shortfall in savings. Officers advised that the £87k shortfall was the position at the time the report was drafted. The budget is monitored monthly and can be affected or skewed when planning applications are submitted. For example, a planning application has been submitted for a major development which will generate £125k in fees. The application is not registered at the moment. When the application is registered the fees are accounted for and this will affect the shortfall figure.

The Chairperson of planning indicated that discussions were taking place at present with regard to up to 30 major developments in the City. A large number of applications were also expected as a result of the LDP.

- In terms of the 2015/16 budget, officer indicated that they were not expecting to be asked to achieve a similar level of savings as during 2014/15. Councillor Michael stated that all service areas will be required to make savings, however, if the income targets for the Planning Service are to be realised, then this needs to be recognised during the budget setting process.
- A member asked whether the service would receive 'inappropriate applications' in order to generate income. Councillor Patel stated that developers are entitled to submit planning applications. Councillor Michael stated that any application must meet planning policy guidance and criteria. The authority was statutorily obliged to consider applications received.

Officers advised the Committee that the number of applications received has increased of late and it was believed that this correlated directly to the projected growth in the city as outlined in the LDP. It was considered that the increase in applications received reflected the renewed confidence and investment in the City.

- Members raised concerns regarding the cumulative impact a large number of non-strategic planning applications would have in some wards in the City. Members questioned what policy framework was in place to deal with a large number of such applications strategically.

Officers advised that the importance of non-strategic applications was recognised. The LDP is being delivered. Secondary planning guidance will follow. It was intended that post-delivery of the LDP staff supporting the LDP process will be realigned to support the LDP through secondary guidance.

The Committee was advised that consultation was being undertaken regarding Household Extensions Supplementary Planning Guidance as the issue was recognised. The existing guidance would be updated as part of a new suite of guidance supporting guidance.

In terms of Houses in Multiple Occupation (HMOs), officers advised that they were currently lobbying the Welsh Government seeking a change in legislation Wales that would allow HMO issues to be tackled.

- Responding to a question from a Member, the Officers advised that there has been no reduction in the number of letters sent to residents advising them of planning applications in their locality during 2014. The service despatches in the region of 20,000 letters each year and there was no intention to reduce that.
- Members asked what could be done to maximise the benefits to existing communities from developments. In particular, Members asked at what stage local Members will be involved in the s106 process.

The Cabinet Member stated that he would encourage local Members to enter dialogue with developers at an early stage. Developers are also encouraged to engage with local elected Members, prior to applications being submitted if possible. The Chair of Planning indicated that some Members were more proactive than others in this regard and he also would encourage local members to engage at an early stage.

Members of the Committee requested further clarification regarding the mechanism that decides which of the schemes, prioritised by local members, are to be delivered within their wards.

Officers advised that service areas were consultees on planning applications. There was often a disconnect between local members and service areas. Officers would also encourage early engagement between local members and service areas so that all parties understand their respective priorities.

- The Committee requested further information regarding the transition between s106 and the Community Infrastructure Levy (CIL). Members were advised that CIL was not replacing s106. It was anticipated that where larger developments require infrastructure s106 will continue to be used to mitigate the impact of the new development to the benefit of existing communities.

Officers advised that CIL can be used more flexibly and that 15% of CIL must be spent within the local area whilst 85% can be spent elsewhere. It was not possible to forecast the levels of income at this stage as a schedule for charging of CIL was yet to be agreed.

- Concerns were raised that developers were not providing appropriate levels of s106. Officers stated that a condition is now included on planning applications which means that it is possible for the authority to reassess levels of s106 funding should market conditions change.
- Members were advised that there was little prospect of meeting the KPIs within timescales as large strategic developments are usually dealt with by negotiation in order to ensure quality outputs. Nonetheless, Committee was asked to note that there had been a small improvement in KPI performance.

AGREED –That the Chairperson write on behalf of the Committee to the Cabinet Member for Transport, Planning & Sustainability with the following observations of the Committee:-

- Members noted the progress that the Planning Service has made in such a short period of time particularly as the Planning Service has been through a major service restructure. The Service has performed well against the additional income target of £512,000 during 2014/15 and has performed well against the main Planning Service indicators.
- The Committee would like to receive a detailed financial summary of the Planning Service for 2014/15 including:
 - A budget summary for the Planning Service as a whole with a breakdown of the budget allocated to each of the individual teams;
 - An income summary for the Planning Service as a whole with a breakdown of the income generated for each of the individual teams;
 - An overall summary of the progress made by the Planning Service against its savings target for 2014/15. This should be supported by a progress update against each of the individual budget saving lines that were agreed for the service during the 2014/15 budget setting process.
- Members noted that the Welsh Government is currently reviewing the fees that Welsh local authorities can apply to planning work. The Committee were informed that the last review was undertaken in 2009 and that the potential change could have a noticeable impact on levels of income generated. Members would be grateful if you could arrange for an income projection to be produced based on the 2014/15 income levels and the anticipated change in fee levels; they would also like to know when fee changes would be applied.
- Some Members raised concerns that a reduction in Planning Service resources and a recent increase in the volume of planning applications would have an impact on quality assurance around how applications are processed. The Committee would like assurance that quality assurance standards are being maintained when officers are dealing with new applications and that corners are not being cut to deal with increased demand.
- It was noted that there has been a delay in developing new Statutory Planning Guidance for Houses of Multiple Occupation and Flats. Members were concerned that a lack of resources was delaying the completion of this and other vitally important Statutory Planning Guidance. The Committee was advised that there was limited capacity to develop such Statutory Planning Guidance, and that following completion of the Local Development Plan staff would be transferred across to the Strategic Planning Service to help develop such work. The Committee would like confirmation as to when this will happen and when the Statutory Planning Guidance for Houses of Multiple Occupation and Flats will be completed. Members do not accept the argument that in order to complete the development of Statutory Planning Guidance the Local Development Plan needs to be in place; they take a view that many pieces of Statutory Planning Guidance have been completed in Cardiff without having a

Local Development Plan in place.

- Members debated the basic level of understanding that Councillors have on the planning system. The Chair of the Planning Committee felt that improving basic knowledge was vital, particularly as this could help educate Members on the legislative restrictions that planning officers and the Planning Committee are constrained to work under. The Committee agree that Member training on the planning system needs to be improved. The Committee would ask that the Cabinet Member undertakes a review of the Member training on the planning service and provided feedback to the Committee once a conclusion is reached.
- There was a debate on the best way for Members to engage in discussion around allocation of development based funding, for example, s106 funding and the Community Infrastructure Levy. It was agreed that it was important for Members to liaise with the Planning Service and other relevant services in a timely manner and that agreeing some type of formal platform for debate was vital from a strategic perspective as well as helping to maintain the integrity of Members in the process. With this in mind the Committee would appreciate if the Cabinet Member could give some further consideration to the following:
 - A suggested structure from as to how Members can best engage with the funding process.
 - If the Cabinet Member could provide a document which sets out the criteria against which section 106 funding can be applied for and how it is allocated.
 - Members would like to know how many cases are presented to Planning Enforcement each year and from these how many result in preventative action taking place. The Committee would also like to know if it is possible for the enforcement process to be speeded up and resource allocation in this area.
 - Members would like to know how many cases are presented to Building Control each year and from these how many of these applications are accepted or rejected.
 - The Scrutiny Chairs are aware of the current consultation exercise on the proposed Community Infrastructure Levy rates for Cardiff. They are considering how best to scrutinise this issue and will shortly inform you as to how they wish to proceed with the matter. It is anticipated that any work undertaken will be in the first calendar quarter of 2015.

43 : CARDIFF'S ENERGY PROSPECTUS

The Committee received a report on the development of Cardiff's Energy Prospectus. Members were given an opportunity to scrutinise the document and discuss the work which needed to be undertaken to complete the document.

The Committee was advised that cities are facing significant challenges in terms of current and future demand for energy. Ensuring that Cardiff Has access to sustainable and secure energy is crucial to ensuring service delivery, business

competitiveness and long term quality of life. The report set out the potential opportunities for Cardiff to localise and diversify sources of clean energy.

Members were advised that, like most European cities, Cardiff is dependent on imported energy, most of which is imported from outside the UK. Increasing prices, increasing demand for energy and a reduction in the production of fossil fuels makes Cardiff vulnerable to disruptions of supply. The continued dependence on fossil fuels and imported energy also means that there is no local control over the cost of energy. Therefore, energy resilience has been identified on the Council's Corporate Risk Register as a matter to address.

Creating local energy sources can help to establish Cardiff as a leading destination for business. By producing more of the energy needed locally in a sustainable way Cardiff can become more self-reliant and resilient.

The UK's target for renewable energy production is 15% by 2020 (EU target is 20%). In 2012 the total energy production from renewables was 4.1%. Cardiff's current renewable production is estimated to be lower than this although a number of schemes which are due to be delivered in the near future will help to close the gap; schemes such as the energy from waste plant, Lamby Way solar farm, Radyr Weir and other building mounted solar schemes.

Members were advised that Cardiff is also facing a significant challenge from the growth of the city. The LDP has identified the need for approximately 30,000 new dwellings by 2026. Meeting these requirements presents an opportunity to work alongside developers to deliver more sustainable homes.

The report provided details of the work undertaken to identify a range of local energy generation opportunities which will inform Cardiff Energy Prospectus. Consideration has been given to the key success factors for each individual project, such as the project cost, return on investment, annual energy generation and jobs created. A list of the proposed projects were appended to the report.

Members were advised that the extent of the Council's involvement would be dependent on the availability of capital financing and the wider strategic choices facing the Council in determining its service delivery priorities. It is anticipated that the Council may be able to provide some support on projects with matched funding contributions to draw on larger external funding sources, or with land and assets. However, significant partnerships and external investment is required to secure long-term sustainability goals.

Officers estimated that a capital investment of £77 million would be sufficient to cover the Council's annual electricity bill of £7.84 million, allowing a return on investment of over 10%, which would outperform the majority of investment asset categories. Such an investment would not only allow the Council to become self-reliant for its own electricity consumption, but it would stabilise costs and assist in the provision of sustainable services.

Members were advised that once the draft Cardiff Energy Prospectus is complete it will be presented to Cabinet for approval. For the full proposals to be developed further, work will need to be undertaken to gain an understanding of the best route to market and delivery of the energy infrastructure projects. Establishing a governance

model will also be crucial if the City is to capture the benefits arising from opportunities to invest or facilitate investment in energy infrastructure.

The Chairperson welcomed Councillor Ramesh Patel, Cabinet Member for Transport, Planning and Sustainability and Jane Foreshaw, Director of the Environment to the meeting. The Director was invited to deliver a brief presentation on the Cardiff Energy Prospectus.

AGREED – That the Chairperson write on behalf of the Committee to the Cabinet Member for Transport, Planning and Sustainability with the following observations of the Committee:-

- Members found the presentation on Cardiff's Energy Prospectus very useful. They thought that the development of an energy prospectus was a good way to clearly map out Cardiff's local energy generation opportunities and the impact that these projects have upon the city, for example, the amount of energy produced and employment created.
- It was clear from the presentation that Cardiff, Wales and the United Kingdom face significant future energy sustainability / security challenges and that the energy prospectus could be used as a benchmarking tool to establish exactly how prepared we are to meet these. This prompted discussion and a number of important questions including:

Is Cardiff doing enough to generate 15% of its energy through renewable sources by 2020? There are only five years left and the city currently achieves less than the 4.1% UK average.

Should the Council nominate energy sustainability / security as an economic priority? For example, does it represent a good income generation opportunity at a time when budgets appear to be in continual decline, and is having a reliable supply of energy one of the fundamental building blocks for any growing economy?

What stake should the Council take in terms of renewable energy production? For example, is it in our interests to invest in such projects for the benefit of the Council / Cardiff citizens or should we allow the free market to fill the vacuum of this opportunity?

Does the Council need to document its position on the relationship between risk and reward for evaluating renewable energy projects?

As an organisation that spends £12m plus VAT per annum on energy is the Council in a position where it has to be proactive in achieving a reliable energy supply?

- During the meeting Members were told that the Council had decided to progress the development of the Lamby Way Solar Farm through a third party land lease arrangement instead of directly investing in the scheme. The Committee would like to receive a detailed copy of the business case for this proposal with a description of all weightings and assumptions used to evaluate the two models. Members would also like a summary of the overall capital

investment assessment process used including detail on any weightings allocated for the major Council priorities and how these would impact on renewable energy projects.

- Members believe that the Council should look into and review the case for creating an arms-length energy production company. The Committee feel that such a company could have the potential to help generate an ongoing income stream for the Council and support the energy security agenda for Cardiff and Wales.
- During the meeting Members were briefly told about a ground breaking project called the 'HELES Hydrogen Project' and Members would be grateful if the Cabinet Member could provide the Committee with more detail on this project.
- Members would like a further progress update on the development of Cardiff's heat energy network.
- The Committee felt that the creation of the Carbon Reduction Strategy was a positive step forward and thought that the initial draft proposals were a good starting point for the creation of a Council policy.

44 : CORRESPONDENCE

The Committee received copies of correspondence sent and received in relation to matters previously scrutinised by this Committee.

AGREED – That the correspondence report and attached documentation be noted.

The meeting terminated at Time Not Specified