

POLICY REVIEW AND PERFORMANCE SCRUTINY COMMITTEE

17 APRIL 2013

Present: County Councillor Clark (Chairperson)
County Councillors Bale, Hunt, Keith Jones, Knight, Lloyd,
Mitchell, Robson and Walker

55: MINUTES

The minutes of the meetings held on 20 February and 6 March 2013 were approved as a correct record, subject to a number of typographical and minor accuracy amendments.

56: DECLARATIONS OF INTEREST

The Chairperson reminded Members of their responsibility under Part III of the Members' Code of Conduct to declare any interest in general terms and to complete personal interest forms at the start of the meeting and then, prior to the commencement of the discussion of the item in question, specify whether it is a personal or prejudicial interest. If the interest is prejudicial Members would be asked to leave the meeting and if the interest is personal, Members would be invited to stay, speak and vote.

Councillors Bale and Hunt declared a personal interest in Item 5 as Members of a political group which rents 2 office units that are included within the non-operational property portfolio.

57: PUBLIC ENGAGEMENT – SCRUTINY TASK AND FINISH GROUP

The Committee received the draft Task and Finish inquiry report into Public Engagement with Scrutiny. Members were asked to endorse the recommendations of the Task and Finish Group. The Committee had agreed to undertake the inquiry following the publication of the Local Government (Wales) Measure 2011 and its accompanying guidance in June 2012. The Local Government (Wales) Measure contained a series of requirements and recommendations to ensure that the public are actively involved in local democracy.

The Task and Finish Group devised and agreed the following terms of reference:

“To enable public engagement through the different functions and processes of scrutiny to identify:

- *the requirements of public engagement under statutory requirements such as The Local Government (Wales) Measure 2011*
- *best practice across the UK*
- *what can be adopted or adapted in Cardiff and how it can be resourced.”*

The Chairperson welcomed Robina Samuddin, Principal Scrutiny Support Officer, to the meeting. Ms Samuddin presented the Task and Finish inquiry report.

The Committee was advised that as part of the inquiry a series of meetings were held which were attended by a variety of key witnesses. Evidence of best practice from other local authorities was also considered. Following a review of the evidence Members identified key findings under the following headings:

- Raising Public Awareness of Scrutiny
- Scrutiny Website
- Public Engagement with Scrutiny
- Production of the Forward Work Programme
- Public Engagement and Call-in
- Engaging with the Third Sector
- Taking the Public’s Views into Account.

A number of the key findings identified were to be implemented by Scrutiny Services, whilst others have implications for the Council’s Constitution and are commended to the Council’s Constitution Committee for further consideration. Further key findings were set out in a series of recommendations to the Cabinet.

In terms of public engagement, Members were advised that the research undertaken into good practice in other local authorities had indicated that no single local authority could be identified as an example of best practice in all their public engagement work. It was suggested, therefore, that Cardiff Council had significant scope to implement its own processes aimed at improving public engagement.

The Committee discussed the recommendations. During the discussions the following points were made:

- Members questioned, in terms of the changing media landscape, how a local television channel would impact on public engagement. Officers stated that local

television had not formed part of the inquiry but agreed that it would provide excellent opportunities for engagement.

- Recommendation 1 of the inquiry report recommended that the Cabinet provide Scrutiny Services with resources dedicated to increasing public engagement. It was questioned whether this recommendation was tenable and, if the subsequent recommendations were accepted by the Cabinet, whether or not this recommendation should be the first recommendation in the report. The Committee discussed this further and formed a view that Recommendation 1 should be the last recommendation in the report received by the Cabinet.
- The Committee considered that effective public engagement needed to be conducted to coincide with major policy changes. Effective scrutiny of policy changes can provide a conduit for parties wishing to contribute to consultation. Officers referred to the ‘menu’ of options set out in the report which summarised the possible options whereby the citizens and communities can contribute to the delivery of work programmes. The Committee was reminded that Council protocols would need to be adapted to allow a number of these options to be implemented.
- Concern was expressed at the emphasis on social media. Questions were raised whether anonymous correspondence had any validity as most electronic media had a degree of anonymity attached. Whilst it was a useful tool to gauge public opinion, it was less valued as a means of dialogue. Conversely, Members agreed that, whilst it was important not to become over-reliant on social media, opportunities existed to make use of the advantages presented by social media. Commercial brands were making gains by exploiting social media and it was considered that this could work just as well for local government. A generation of people were now exclusively using social media, and it was important to engage with them, as this avenue for public engagement can be just as effective as traditional means if it is done well.

Officers advised the Committee that the inquiry recognised that public engagement needed to consider all sections of the community and there was no ‘one size fits all’ solution.

AGREED – That the Committee endorse the recommendations set out in the Task and Finish Inquiry report, subject to the renumbering of the recommendation as set out above, the inclusion of further detail regarding some of the potential methods of engagement in the recommendations, and some minor formatting changes.

Councillor Bale and Councillor Hunt declared a personal interest in the following item as members of a political party which rents units which were included within the non-operational property review.

58: NON-OPERATIONAL PROPERTY REVIEW

The Committee received a report to aid their consideration of the Council Strategic Review of the Non-Operational Property Estate. Non-operational property is defined as property and land owned by the Council but which is not used to operate from, or to deliver services. It is often let for commercial purposes or used to promote local employment, small businesses and the economic regeneration of local areas.

Members were advised that in June 2010 the Wales Audit Office published a review of public sector property management entitled 'Buildings Management National Briefing'. The review noted that in Wales the public sector spends over £500 million a year on running non-operational land and buildings valued at about £12 billion. Around £8.5 billion of the estate is managed by local authorities. The report highlighted the following:

- the condition of the land and buildings is generally poor and many organisations do not have accurate information regarding their maintenance backlog;
- while most organisations have land and property strategies in place, these are often out of date, insufficiently flexible, or inadequately resourced;
- performance management of the public sector estate is weak in terms of setting objectives and monitoring performance, so it is unclear whether the effective use of land and buildings is improving;
- at an operational level, management of land and buildings is often inconsistent;
- organisations often concentrate on the short-term and do not place enough emphasis on non-financial issues, such as the social and sustainability impact, in the management of their estate.

Following a review of the Council's Asset Management Plan (AMP) by the Wales Audit Office, which revealed that the AMP did not contain sufficiently robust principles to enable effective management of the estate, the Council identified the need to improve corporate arrangements. The Council appointed a Corporate Property and Estates Manager tasked with developing a land and property strategy, which was presented to the former Committee in December 2010. A Land and Buildings programme was also established under the Transformation Portfolio, which established the Non Operational Property Review. The project aimed to:

- determine the rationale for the Council retaining an interest in its portfolio property;
- collate and analyse available information to inform policy development;
- develop and gain agreement of clear policy and financial guidelines for strategic and tactical management of non-operational property;
- specify and implement organisational and process changes for cost effective management of non-operational property;
- develop and implement changes and take opportunities made available by this clarification and change of approach.

The Chairperson welcomed Christine Salter, Corporate Chief Officer and Charles Coats, Corporate Property and Estates Manager to the meeting and invited them to deliver a presentation on the review of the Council's non operational property estate. Councillor Russell Goodway, Cabinet Member for Finance Business and the Local Economy, had been invited, but had been unable to attend the meeting.

The Committee was reminded of the reasons for the review of property which the Council owns but does not occupy or run a service from. The estate is comprised of nine categories of property, as follows:

Industrial Workshops	-	9 estates (148) units
Retail Units let at market rent	-	91
Retail Units let at ground rent	-	66
Commercial properties	-	19
Public Houses	-	28
Hotels	-	7
Industrial Ground Leases	-	100
Community Buildings	-	55
Cardiff Central Market	-	253 stalls

Members were advised of the location of each of the properties within the city. A summary of the financial information was also provided, including gross rental income, outgoings, maintenance backlog, asset value and net yield.

The review set out the following four options as possible ways forward:

1. The Status Quo – do nothing.
2. Expansion of the Estate – judicious acquisitions based on an examination of best performing properties drawing on a process of gap analysis.

3. Rationalisation of the Estate with capital receipts ringfenced for regeneration and modernisation of the retained estate subject to prevailing capital programme pressures. Available capital receipts to be reinvested in the estate in line with current regeneration policies and to allow additional regeneration support opportunities to be developed.

4. Rationalisation of the Estate to realise capital receipts for corporate reuse. Any monies obtained through the sale of property will be absorbed into the general fund and will not be reused specifically for modernising or refurbishing existing properties.

The Committee heard that Options 3 and 4 set out above could be pursued either reactively i.e. the Council awaits expressions of interest and opportunities to arise through expiring leases; or proactively i.e. the Council actively pursues disposal initiatives, approaching sitting tenants or marketing as investment opportunities.

The review concluded that the non-operational property estate represented a large, diverse and extensive portfolio of properties, which fulfilled a socio-economic, employment and financial function. Currently, there is no long-term vision or management strategy and many parts of the estate would benefit from reinvestment and modernisation.

The review recommended that Option 3 – Proactive rationalisation of the estate with priority being given to capital receipts arising from disposal being ringfenced for modernisation and regeneration of the retained estate subject to prevailing capital programme pressures and priorities – be adopted as a way forward. It was noted that the following considerations influenced the recommendation:

- not all properties contribute to the Council's employment and broader socio-economic goals;
- many are held for historical reasons; some of which are no longer relevant;
- in some cases Council ownership can act as a block to development;
- the estate has a large maintenance backlog; addressing this would improve the overall quality of the portfolio, its income and the quality of tenants;
- on many estates where the Council has an interest for strategic development, socio-economic and community reasons, properties are underperforming.

For each category of property within the estate the following was recommended:

- Workshops – majority to be retained but select estate made available for disposal with poorest performing sites refurbished from receipts arising from the

sale of other estates. NB this part of the portfolio will be subject to a separate review.

- Shopping Parades (rack rent) – where the Council owns entire parades, regeneration programmes to continue subject to review of development opportunities. Stand alone properties to be disposed of when the best opportunity arises.
- Shopping Parades (ground rent) – ground rent shops to be disposed of when best opportunity arises unless they form part of a larger rack rent parade.
- Commercial – a minority of strategically important ground rent properties to be retained. Other properties within this category to be disposed of.
- Public Houses and Licensed Clubs – to be retained unless there is a prospect of redevelopment. Leases to be re-gear to market rental value when best opportunity arises.
- Hotels – ground rents at the 3 city centre hotels that have strategic importance to be retained, with the other 5 hotels being disposed of when best opportunity arises.
- Industrial Ground Lease – fragmented sites to be disposed of when best opportunity arises. Leases on retained sites to be re-gear to more modern terms.
- Community Buildings – new financial procedures to be introduced to improve financial transparency. Community Asset Transfer initiatives to be progressed in accordance with current Council policy.
- Central Market – to be retained and modernised on a self-financing basis.

The Committee was advised that, as a result of the recommended course of action the outcomes and benefits were:

- Streamlined and proactively managed estates
- Increased revenue from retained properties
- Better quality properties, delivering better services, attracting higher calibre tenants
- Significant capital receipts realised from sales
- A cogent, transparent policy and rationale to inform future management
- Development of a stakeholder consultation and communication plan
- Extensive stakeholder consultation
- Site by Site review in accordance with approved strategy
- Preparation of detailed long term implementation plan.

The Chairperson thanked the officers for their presentation and invited questions and a discussion on the issues from Members of the Committee. During the discussions the following key matters were raised:

- Members urged caution against the sale of Council assets and questioned whether sites that are earmarked for disposal could be put to alternative use by other service areas of the Council. Officers advised that where property is subject to existing tenancies then the authority would be obliged to uphold the terms of those tenancy agreements. However, when property becomes vacant, the property would be subject to the Asset Management process, and therefore the authority would always consider alternative uses for sites, prior to disposal.
- It was noted that the report contained figures for the 2010/11 financial year. Members questioned why the report had not been taken forward since. Officers advised that the non operational property review had been completed in April/May 2012. It had formed part of the Council's Forward Plan since.
- The Committee was concerned at the significant backlog in maintenance repairs and the lack of any long-term management strategy. Officers stated that the portfolio was diverse, with little homogeneity, and, as a result, advised Members not to draw too many generic conclusions. Some estates were in good condition, others needed investment; many were ground rented and, therefore, the tenants were responsible for maintenance.
- Officers advised the Committee that whilst there were always a small percentage of void properties, the percentage figure had not been adversely affected by the downturn in the economy. The actual percentage figure had been reduced to below 4%. Void properties were proactively managed and were advertised as soon as they become available.
- Members noted that there was a lack of industrial/workshop property in the north of the City and questioned whether income would be ringfenced to address this as part of the Local Development Plan (LDP) process. Officers advised that the income generated would not be ringfenced.
- Member asked whether specific, seemingly 'bizarre' conditions were still forming part of tenancy agreements e.g. shops being permitted to sell certain goods and not others. Officers advised that many tenancy agreements were historic and had been in place for many years. A more flexible approach was now being taken. Tenants were able to request to amend or vary conditions and officers had the ability to exercise discretion when considering such matters.
- Members of the Committee stated that a policy or strategy for the management of non-operational property was urgently needed. Officers agreed and advised Members that such a strategy was being devised and that Scrutiny Committee had an opportunity to comment on and have an input into that

strategy. The Wales Audit Office had previously commented on the lack of a policy framework and it was important that these issues were progressed.

- Questions were raised regarding the rationale behind the recommendation set out in the presentation to dispose of 5 of the hotels which the authority owns. Officers stated that this option was included in the presentation as an illustration and it would be ultimately for the Cabinet to decide whether disposal of these properties was the right way forward. Members expressed concern as the recommendation appeared to pre-empt any future decision of the Cabinet.
- The Committee felt that data regarding occupancy rates and length of leases would have provided useful insight. Officers stated that this data is very varied indeed. When properties become available leases are considered on their merits; what is appropriate depends upon the level of interest in a property and terms vary as a result. Workshops are normally 5-year terms so as to encourage start-up businesses.
- Officers were familiar with the ‘pop up shop’ concept but at present there were no such enterprises operating from the Council’s non-operational estate.
- The Committee noted that any decision to dispose of properties was likely to impact on the locality the properties were based in.
- The Committee drew the conclusion that 6.4% net yield in income from the portfolio was an encouraging rate of return and questioned whether such a rate of return could be achieved by investing the capital receipts from any future disposal of property through other means. Officers agreed that 6.4% net yield was a healthy return and stated it was unlikely alternative methods of investment would achieve this.
- The Committee was not satisfied that they were being asked to comment on a Cabinet decision report which had not been made available for their consideration. Members felt that the Committee should receive the same level of detail as the Cabinet prior to them making their decision. Officers stated that the issue is due to be considered by Cabinet in May or June. The Committee requested the opportunity to consider the final report.
- Members were advised that there were economic and employment considerations when potentially disposal of properties. Many assets provide a local service – such as shopping parades – but it does not necessarily follow that the Council has to retain ownership. There were also neighbourhood management issues to consider. Members, citing the example of Countisbury

Avenue shops in Llanrumney, stated that it was important to consider the consequence of decisions, as since these properties were disposed of efforts to address neighbourhood management issues in the area have been thwarted. It has become apparent that it is difficult to ascertain who the landlords of the properties are and as a result, members of the public are unable to understand why the authority had difficulty addressing certain neighbour management issues.

- Officers clarified the suggestion that Cardiff Central Market could be modernised on a self-financing basis. It was not proposed that stall holders should pay for the modernisation. The Central Market makes a surplus for the authority and, although those funds are not currently ringfenced, the Council is able to use its capital programme to improve facilities in the Central Market.
- Members questioned whether Council ownership of local shopping parades was an asset or a liability and whether the report had identified where opportunities existed for potential new owners to invest and revitalise local shopping areas. The Committee was advised that these issues were outside the scope of the non-operational property review. However, it was hoped that the report would stimulate discussion.
- Concern was expressed that the disposal of property could be driven by austerity measures. Assurances were sought that rationalisation of the estate would dovetail into the LDP process. Officers confirmed that the authority's future requirements would be considered. Service areas set out their requirements within the Asset Management process. Annual Service property plans were currently being developed providing a comprehensive idea of future service requirements, in order that service needs can be established, and what can be provided from within the estate can be anticipated.
- The Committee questioned whether benchmarking was being undertaken with other local authorities. Officers advised that benchmarking with other authorities was being discussed within the Core Cities Group. However, clear performance measures were needed. These had not been analysed to any degree of detail. A significant amount of work was required in order to gather a robust body of evidence.
- Members sought clarification of the process for the disposal of property. The Committee was advised that the Property Disposal Strategy outlined the process. Surplus or potentially surplus sites (approximately 70 at present) appear on a schedule. Disposal of land, once surplus, is considered by the Asset Management Board. Consultation with local Members is undertaken prior to disposal. Any sale of property in excess of £1 million would be decided by the Cabinet, as set

out in the Council's Constitution.

AGREED – The Committee agreed to write to the Cabinet Member for Finance, Business and Local Economy highlighting the following issues:

- Members were disappointed that the Cabinet Member was unable to attend the meeting as input in terms of the Cabinet's view was vital. Members were concerned that there appeared to be no vision or strategic direction for the use of the Council's non-operational property. The presentation given to the Committee included some quite specific officer options and recommendations for proceeding, but without such a vision or strategy having been set down by the Cabinet.
- In the light of the Wales Audit Office's comments in recent years that public sector bodies should improve the way in which they manage their estates, the Committee felt that it was imperative that a clear plan for the management of the Council's non-operational estate be put in place as soon as possible. The Committee has been concerned that this item has featured on the Cabinet's forward plan on a rolling basis for several months without being presented. This has made it extremely difficult for an effective scrutiny of the issue to be planned. The delay may also have resulted in an increase in the Council's maintenance backlog. The Committee therefore hope that the Cabinet Member will ensure that a report is considered by the Cabinet in the near future.
- In terms of the content of the Review, the Committee was concerned that there was undue emphasis on the financial benefits of the non-operational estate. Sufficient regard should be given to the potential social, community and economic benefits of either managing this estate more effectively within Council ownership or of disposal. Members were partly reassured by officers' comments that due regard is given through the Asset Management process to potential alternative Council uses of non-operational land and buildings prior to their disposal. The Committee seeks the Cabinet Member's assurance that future Council requirements and other possible benefits will be given sufficient weight against the potential monetary value when disposals are considered.
- Members welcomed officers' comments that they are seeking to obtain information regarding the performance of the Council's non-operational estate as compared to other Core Cities, in particular Bristol and Sheffield. The Committee noted that very explicit performance measures must be developed in order to allow a useful comparison.
- While Members welcome the opportunity to contribute to policy development at an early stage, they do not feel that this is a substitute for full pre-decision

scrutiny of a Cabinet report. All members of the Committee urge the Cabinet Member to come before the Policy Review and Performance Scrutiny Committee together with the comprehensive and substantive draft report for the non-operational property review before it is presented to Cabinet to enable this to take place. The Committee noted the Corporate Chief Officer for Corporate Services' comments that the report would not be presented to May Cabinet, but that it may be presented in June. As the Committee intends to invite external witnesses to attend in order to aid their consideration, the Committee requests that the Cabinet Member confirm the timing of this item as soon as possible.

- The Committee requests that, prior to this, the Review is amended to include:
 - A strategic vision for the use and management of the Council's non-operational property;
 - A clear statement of the Council's intention to use this estate for social and economic advantage as well as for financial gain;
 - Data permitting comparison of the performance of Cardiff against other councils and of other councils' governance processes regarding their non-operational property;
 - A clear communication strategy for current tenants of these properties;
 - Details of the asset management process, so that it is transparent where decisions about the disposal of land and buildings will be made and upon what basis.

- Given the planned additional review of Council-owned workshops and as the Committee believes that the potential economic potential of non-operational sites should be taken more strongly into consideration, the Committee advised that a copy of the letter to the Cabinet Member is copied to the Chair of the Economy & Culture Scrutiny Committee who may wish to take this issue into account in that Committee's 2013/14 work programme.

59: PROPOSED MASTERPLANNING GENERAL PRINCIPLES LOCAL DEVELOPMENT PLAN – TASK AND FINISH GROUP

The Committee received the draft scrutiny inquiry report into the proposed Local Development Plan (LDP) Masterplanning Principles Strategy, prior to them being discussed by the Cabinet at its meeting of 9 May 2013.

Kate Ward, Principal Scrutiny Officer presented the report, highlighting the key findings and recommendations. Members of the Committee were asked to comment on the draft scrutiny inquiry report and consider endorsing the findings.

Members requested that the recommendations be reinforced in order to strengthen the need to consider the views of residents of existing developments

with a view to learning from the shortcomings of the past. Additionally, further consideration should be given to the protection of existing cultural and biodiversity features within local communities. Member also requested that local lists of listed buildings be included in the Masterplanning Principles.

AGREED – That the Committee endorse the draft Task and Finish Inquiry report, subject to the amendments highlighted above.

60: DELIVERY AND PERFORMANCE REPORT QUARTER 3 2012/13

The Committee received the Delivery and Performance Report for quarter 3 of 2012/13 for information.

AGREED – That the Committee note the contents of the quarter 3 delivery and performance report.

61: 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.

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Chairperson