

OVERVIEW AND SCRUTINY PANEL

WEDNESDAY, 30 MAY 2018 - 2.30 PM



PRESENT: Councillor C Boden (Chairman), Councillor M Humphrey (Vice-Chairman), Councillor G Booth, Councillor S Clark, Councillor S Count, Councillor D Hodgson, Councillor K Mayor and Councillor K Owen,

APOLOGIES: ,

Officers in attendance: Anna Goodall (Head of Governance and Legal), Carol Pilson (Corporate Director and Monitoring Officer), Nick Harding (Head of Shared Planning), Richard Cassidy (Corporate Director), Sarah Gove and Izzi Hurst (Member Services & Governance Officer)

OSC/1/18 APPOINTMENT OF CHAIRMAN FOR THE MUNICIPAL YEAR.

Anna Goodall requested a nomination for Chairman of the Overview and Scrutiny Panel. It was proposed by Councillor Owen, seconded by Councillor Sam Clark and resolved that Councillor Boden be elected Chairman of the Overview and Scrutiny Panel for the Municipal Year.

OSC/2/18 APPOINTMENT OF VICE-CHAIRMAN FOR THE MUNICIPAL YEAR.

It was proposed by Councillor Owen, seconded by Councillor Sam Clark and resolved that Councillor Humphrey be elected as Vice-Chairman of Overview and Scrutiny Panel for the Municipal Year.

OSC/3/18 PREVIOUS MINUTES.

The minutes of the meeting 2 May 2018 were confirmed and signed subject to the following comments;

- Councillor Boden highlighted on page 6 of the Agenda Pack point 2; he had asked if these offices were fulfilling their purpose as incubator units for businesses or are firms locating to them permanently.
- Councillor Boden asked that on page 7 of the Agenda Pack the statement in bold the word 'comment' be replaced with 'recommendation' as this was agreed unanimously by the Committee.
- Councillor Booth said that on page 4 of the Agenda Pack point 8; he had asked if the GRANTfinder software was the same software the Council had previously used and asked that the word 'eradicated' be replaced with 'decommissioned'.
- Councillor Booth asked if the word 'oppose' could be replaced with 'opposed' on page 6 of the Agenda pack point 7.
- Councillor Booth highlighted that on page 6 of the Agenda Pack point 9; members had asked for statistics relating to other sectors and wanted this noting as an action point.

OSC/4/18 2018 PLANNING SHARED SERVICE ANNUAL REVIEW

Councillor Boden thanked officers for the report and welcomed Councillor Hiller from Peterborough City Council (Cabinet member for Growth, Planning, Housing and Economic Development) and Councillor Mrs Laws.

Members asked questions, made comments and received responses as follows;

1. Councillor Owen said following a discussion with Nick Harding a few days ago, he had discovered that only two officers are currently shared with Peterborough City Council. He believed that originally, more officers would be shared and asked for further information about this. Nick Harding clarified that the current arrangement is that he and another officer are shared with Peterborough City Council, however Fenland District Council and Peterborough City Council are able to purchase specialist services from each other, such as planning policy support, Conservation Officer expertise and assistance with Section 106 management and viability. He added that when the shared service started, it had been agreed to consider a single-support service and highlighted that this is shown in the report.
2. Councillor Boden asked for an estimate of how much has been charged for these services by the two Councils. Nick Harding apologised as he did not have the current year's figures, however agreed to circulate to members the costs for the last financial year. He explained that charges made to the Council are at cost, so therefore no profit is made from the arrangement.
3. Councillor Booth said there was no mention of potential savings in the report and asked Nick Harding if the Council is on budget to achieve the projected savings. Nick Harding said yes as nothing has changed in respect of the shared officers and so these savings are still being delivered; however he did highlight that as time progresses the landscape in both Fenland and Peterborough has changed since the shared service started and so from a budget point of view a like for like comparison cannot be made any longer.
4. Councillor Boden asked if the information relating to the shared-service arrangements noted in 5.1 and 5.2 of the report, could be circulated to all members along with the financial costs. Nick Harding agreed to this.
5. Councillor Owen stated that members had previously received periodic updates showing staff changes in the Planning team however these had not been circulated for some time. Carol Pilson confirmed that members are now only informed of staff changes at Head of Service level and above. Councillor Booth confirmed that members had previously been updated on all staff joining and leaving the Council. Carol Pilson confirmed this had been the case but members are now only updated on staff changes Head of Service level and above but did agree to reconsider this.
6. Councillor Owen stated that he preferred to deal with staff at an operational level when asking for information. Councillor Mrs Laws said she had circulated the Planning Committees contact details to members and highlighted that case officer's details are available on the website for specific planning applications. Councillor Owen agreed to look on the website for these details in the future.
7. Councillor Humphrey said that several members appear to be unsure of the shared-service arrangements and asked Councillor Hiller for his opinion on the shared-service and the enhancement it brings, from Peterborough City Councils point of view. Councillor Hiller said he thought it was a very effective arrangement and although Fenland District Council had not wanted a fully integrated service, it is beneficial to both Councils as Fenland District Council purchase Peterborough City Council's expertise and Peterborough City Council buy officer's time from Fenland District Council. Councillor Boden thanked Councillor Hiller for his view on the service.
8. Councillor Boden said the report was extremely positive however it does not highlight any issues within the Planning service such as the recent issue with the 5-Year Land Supply. He stated that a number of members had also received feedback from the public in relation to the processing times of planning applications and asked officers to clarify whether the service has issues with progressing applications. Carol Pilson reminded members that the report focuses on the shared-service arrangement and not Fenland District Council's performance however encouraged members to contact her, Nick Harding and case officers in relation to specific planning application concerns. She explained that often the processing of applications is delayed due to outstanding information from applicants and agents but on

occasion where the Planning process is at fault, these are addressed as a matter of urgency. She reiterated that officers would welcome dialogue with members in relation to any concerns with the process.

9. Councillor Boden thanked Carol Pilson for her response but said whilst the complaints members receive can be anecdotal, certain members of the public believe that Fenland District Council are not proactive in pursuing applicants and agents for missing information and other Local Authorities have better processes in place for this. Carol Pilson confirmed that the Planning Committee had recently received training in relation to application validation to help members understand the process involved. Councillor Mrs Laws confirmed this and said that any complaints she had received in relation to specific applications have been investigated and resolved. In relation to the training, Councillor Mrs Laws said she had been shocked to learn that only approximately 10% of all planning applications received contain the relevant information officers require to process them. Because of this, the technical team in the Planning team have to chase applicants and agents for the missing information which can cause delays in the validation of applications. She reminded members that there are also occasions where agents implicate the Planning team for delays when in fact; they themselves have not submitted the required information therefore creating a negative perception of the Planning team on the public.
10. Councillor Humphrey stated that certain agents had said that Fenland District Council take longer to process applications compared to other Local Authorities. Councillor Mrs Laws said that she has had conversations with several agents and was under the impression that very few of them submit applications with other Local Authorities. She explained that the Planning team try and work with developers in obtaining missing information whilst trying to balance validation targets. Nick Harding confirmed that the Fenland Developers Forum has greatly improved relations between the Council, agents and developers and they are aware that if they have any concerns regarding service performance, they can discuss this with officers. He said like all Councils there is room for improvement and this year, he will be exploring ways to improve the project management of larger planning applications. He confirmed that he is unaware of the response times of other Local Authorities but is happy to look in to this if members wish.
11. Councillor Boden asked Councillor Hiller if Peterborough City Council have similar issues with administrative delays in their Planning team. Councillor Hiller said he was not aware of this but a great deal of work has gone into working with developers to avoid these issues. He reminded members that a lot of complaints are anecdotal and even though applications are being submitted with missing information, applicants are still going to be frustrated by delays. He agreed with Nick Harding that Developers Forums are effective in improving relations between the Council and the public. Councillor Boden thanked Councillor Hiller for his response.
12. Nick Harding highlighted that the report shows that Fenland District Council is performing better than Peterborough City Council in relation to validation and explained that Peterborough City Council have had issues filling job vacancies in the Planning team. He said once the recruitment issue is sorted, the speed of validation will improve and explained to members the process of this. He told members that applicants and agents are made aware of any general delay/issues within the service in order to manage their expectations.
13. Councillor Booth asked if processes could be improved as there is clearly an issue if so few applications are being submitted with the correct information. Nick Harding said that whilst he agrees with this, it is the responsibility of the applicant or agent to submit the correct documentation. He said that some research has shown that householders submitting their own applications are more likely to have their applications validated on receipt compared to agents and this is because the householders follow the guidance and checklists more thoroughly.
14. Councillor Count said the report is very positive however it's difficult to reconcile this with the public's perception of the process. He said he has heard a number of complaints in respect of the Council's Planning service including extra information being requested at the final hour that was not initially required, meaning deadlines are being extended to avoid

applications being refused. He said 4.2 of the report mentions the success of the Planning service however evidence such as the recent lack of 5-Year Land Supply, shows this is not always the case. He highlighted that 6.1 shows 2016/17 Speed of Validation figures had increased however the figure had dropped from the previous year and 6.2 of the report shows only 57% of Pre-application enquiries were responded to within target which is not acceptable as this is a chargeable extra. He added that the report implies good performance however he does not feel this is proven. He had heard from agents that they refrain from complaining in case it has a negative impact on future planning applications they submit and said the report merely compares performance with national statistics as oppose to the Council setting their own Key Performance Indicators (KPI's). He suggested that officers audit recent applications to ensure there was an appropriate level of communication with developers and agents. He concluded that he is concerned the report is too positive and in some parts, contradicts evidence of success in the process and suggested future reviews be written by an outside-party to provide an impartial overview.

15. Councillor Sutton disagreed with Councillor Count's comments and said the issues members have discussed are rarely discussed with Portfolio Holders or Heads of Service and asked why this was. He said if problems are out there, they need to be discussed with members or officers to resolve them. He clarified that 6.1 of the report contains a typographical error. He concluded that the nature of the Planning service means there will always be people who are happy and unhappy with the service, however the majority of people he has spoken to, have been satisfied with the service provided.
16. Carol Pilson explained that it was never officers intentions to make the report overtly positive and said if there are issues with the service these must be reported to officers in order to rectify them. She reminded members that a Planning Advisory Service (PAS) review is going to be undertaken shortly and members will be given the opportunity to add their input in to the review. Once the PAS review has taken place, this will provide a complete picture on the status of the service which should correct these anecdotal issues. Regarding the 5-Year Land Supply issue, she explained that this was a complex situation that is largely out the Councils control. She said the issue is not that too few applications are being granted approval but rather that too few properties are being built fast enough to keep up with the target. She added that the latest figure for Fenland District Council is now 5.86 years which is an improvement and she welcomes the pending PAS review.
17. Councillor Hiller reiterated that officers cannot deal with these anecdotal issues unless they are made aware of them and said in relation to the 5-Year Land Supply there is very little the Council could do to resolve this, as unless sites are delivered the supply will fall.
18. Councillor Boden agreed that without evidence of issues, officers cannot deal with them and said further discussions on the service should take place once the PAS review is complete and asked for a timescale of this review. Councillor Mrs Laws said they are still waiting for a confirmed date for this.
19. Councillor Booth said that in response to Councillor Count's earlier comment, he believes officers are the best people to provide review updates as outside-parties can take too long to learn the subject matter and processes. He said in relation to 6.6 in the report, the appeals data shows fluctuation over the past 4 to 5 years and asked if there was any plans to review the Local Plan as this could have an impact on these figures. Carol Pilson confirmed that Government Consultation has recently taken place and whilst we are waiting for the new framework, the Council are acting on the most recent government guidance. Nick Harding said in respect of the appeals process, there are plans to start reporting to the Planning Committee appeals performance and learning lessons.
20. Councillor Owen agreed with Councillor Count and said that in his experience, Portfolio Holders have been defensive about issues within their service. Councillor Sutton disagreed and said he was unaware of these occasions. Councillor Hiller said he believes Portfolio Holders would tackle any complaints they receive and would want to be aware of recurring issues.
21. Councillor Count said based on the success of the shared service, was there a possibility to widen this to include other Local Authorities in the area. He said this would solve issues with

recruitment and allow expertise to be shared amongst each Council. Councillor Hiller agreed and said this is something that should be considered. Councillor Mrs Laws also agreed to look in to this further.

22. Councillor Booth asked if the business model would need to be changed if we did decide to become a larger shared service. Councillor Hiller said integration would be key to this proposal and whilst Peterborough City Council were keen on this, Fenland District Council had originally not wanted to integrate the services completely.
23. Councillor Booth said 4.2 of the report is useful to the Committee, as it shows the actions taken as a result of their comments. He asked in relation to staff leaving the service, if there were any trends in their reasons for leaving. Nick Harding said there are a variety of reasons why members of staff have left including career progressions, requests for part-time working hours, maternity leave and career breaks. He informed members that a new planning officer is due to start in the team within the next week or two. Councillor Sutton reminded members that the landscape in Fenland has changed and we are now attracting planning officers, unlike national trends. He believes this is largely due to Nick Harding being well-respected in this line of work.
24. Councillor Boden said in his experience, Planning officers have always been helpful and courteous when he has approached them with enquiries relating to his Ward. He said he was shocked to hear only 10% of applications are submitted with all information required and asked if this statistic was a national trend or something that only affects Fenland. He concluded that it was important for the team to be open to the criticisms and comments made by members, as this will help improve the service.

Members of the Overview and Scrutiny Panel AGREED to note the report.

(Councillor Sam Clark declared that she is the Vice-Chairman of the Planning Committee)

OSC/5/18 HOUSING ENFORCEMENT POLICY

Members considered the Housing Enforcement Policy report, presented by Councillor Mrs Laws.

Members asked questions, made comments and received responses as follows;

1. Councillor Boden thanked Councillor Mrs Laws and said the report has a slightly negative bias, which is understandable given the subject matter, however suggested the policy may benefit from providing information on the Council's PIE policy (Prevention, Intervention and Enforcement). He said the policy would also benefit from an index or table of contents in order to make it more user-friendly.
2. Councillor Booth asked in relation to point 5.5 in the report, what experience Amber Valley had had of the policy and how many times they had used the enforcement process. Sarah Gove said there were very few examples of this policy being used, with Amber Valley Council being one of them. The policy there has been well received however she agreed to provide members with further information on this.
3. Councillor Booth asked if feedback had been received from Amber Valley Council. Sarah Gove agreed to provide that information and said officers had liked the staged approach Amber Valley Council had taken in enforcing the policy.
4. Councillor Boden said 26.2 mentions vulnerable tenants and uses the example of tenants with pre-school children in the household. He asked officers if this was the best example of vulnerable tenants as he believes this is too wide a description. Sarah Gove said officers will assess individual cases and agreed to remove this example.
5. Councillor Booth asked if there was a requirement for tenants to put all communications in writing as this seems outdated as most tenants will liaise with managing agents and landlords via phone. Sarah Gove confirmed that when a report for repair is made, proof of communication is requested therefore putting issues in writing allows an audit trail of correspondence.

6. Councillor Count said in relation to point 26.1 in the report, it is best practice for tenants to put into writing any complaints or issues as it provides a record.
7. In relation to point 26.2, Councillor Owen asked if it was necessary to have a further exception for individuals whose first language is not English. Sarah Gove reiterated that assessments will be carried out on a case-by-case basis and if there were concerns regarding a communication barrier between a tenant and landlord, this would be dealt with.
8. Richard Cassidy thanked members for highlighting this as if the examples are too broad, they are open to abuse. He agreed to review the wording and said examples will still be included but not so definitively. He also clarified that correspondence in writing is for evidential purposes as it can be used if a case was to go to Court. Councillor Booth asked if phone records can be used as evidence of contact. Richard Cassidy confirmed that anything written, either electronically or hard copy can be used as a record.
9. Councillor Hodgson asked if the e-mail address in the report was available for public use, as he has received a complaint from a landlord in relation to the policy. Sarah Gove confirmed that both tenants and landlords can use this e-mail address to contact officers.
10. Councillor Hodgson asked when the policy will be available for the public to view. Sarah Gove confirmed that the policy is out for consultation at the moment and is available to view on the Council's website and Social Media accounts. Councillor Boden confirmed that the final policy will be available after it has been approved by Council.
11. Councillor Count suggested in future, that the Overview & Scrutiny Panel should only consider reports once public consultation has ended, as this will allow the public's comments to be considered.
12. Councillor Count said in relation to point 23.8 of the report, the Empty Dwelling Management Order (EDMO) should be utilised more to tackle empty buildings in the area and said there is a lack of activity in this area.
13. Councillor Boden asked in relation to point 19.5 of the report; whether the Council can impose the fine of £5000 or does it need to go through the Magistrates Court. Sarah Gove confirmed that the Council could set this as it is a civil penalty and explained that the level of this fine would be used as a graduated approach and in line with the Council's PIE policy.
14. Councillor Owen asked if an appeal procedure was in place for this policy. Sarah Gove confirmed this would fall under the Residential Property Tribunal.
15. Councillor Booth said there needs to be a balance between imposing fines on landlords and ensuring the issues are rectified. Sarah Gove confirmed that the main aim is obtaining compliance as this will improve the quality of private rented accommodation in Fenland.
16. Councillor Booth asked officers to amend the formatting of the report as there are several errors in the layout. Officers agreed to this.
17. Councillor Booth asked how the officer's hourly rate, in point 16.2 of the report, had been calculated. Richard Cassidy agreed to look into this.
18. Councillor Booth asked why housing associations are not covered by this policy, as discussed in Section 22 of the report. Councillor Boden said following past issues with Clarion, they should have to comply with the policy too. Sarah Gove confirmed that legislation is different for housing associations. Richard Cassidy explained that the majority of legislation does not apply to registered providers however agreed to look at the wording of this section to clarify this further.
19. Councillor Boden said in relation to point 22.4 of the report, it mentions that registered providers 'programme of works' will be considered and asked if this would be the same case for private landlords with a large portfolio. Councillor Count said this section could be removed from the policy as it shows the same process for both registered providers and private sector landlords and is therefore unnecessary. Councillor Owen agreed with this.
20. Councillor Booth asked if Appendix B of the report (The Equality Impact Assessment) will be included in the final policy. He also suggested that point 3.5 of Appendix B contains comments that are relevant to other sections of the assessment and asked officers to consider applying these to these sections too. Sarah Gove agreed to take this into account and they will also consider feedback from the public consultation too.
21. Councillor Booth said members will be able to consider consultee's comments once the final

report goes to Council and said it will be important to see how these have been applied to the policy. He asked if the policy can be reviewed by Overview & Scrutiny Panel in a years' time to see how it works in practise. Officers agreed to this.

(Councillor Count declared that he was a private-sector landlord)

(Councillor Hodgson declared that his daughter is a private-sector tenant and the policy may affect her)

OSC/6/18 CORPORATE ENFORCEMENT POLICY

Members considered the Corporate Enforcement Policy report, presented by Councillor Mrs Laws.

Members asked questions, made comments and received responses as follows;

1. Councillor Boden thanked officers for the report and said it was very useful to have the amendments shown as track changes. He referred to point 2.2 of Appendix A of the report and asked that printed format should still be provided where necessary. Richard Cassidy agreed to this.
2. Councillor Owen asked for further information on the protected groups listed on page 61 of the Agenda Pack and why these must be included in the report. Sarah Gove confirmed that these fall under the Equality Act and Richard Cassidy clarified that the Council must demonstrate that they have considered and protected these individual's rights under the Equality Act.
3. Councillor Boden asked officers to amend the wording on page 56 of the Agenda Pack relating to Statutory Notices as 'any other justifiable reason' is too broad and could be open to abuse. Richard Cassidy explained that by including this phrase, it covers any examples that may not have been listed. Councillor Booth agreed with the wording as it prevents the policy being brought back to Council to amend in the future. Councillor Count suggested the wording be amended to 'any other deemed breach to which the Statutory Notice applies'. Richard Cassidy agreed to consider this however 'justifiable' needs to be included in the event of a Court case.
4. Councillor Boden asked for clarification on page 57 of the Agenda Pack. Richard Cassidy confirmed that the top section titled 'Any other justifiable reason' should be a separate note and agreed to look at the formatting.
5. Councillor Booth asked if the Public Space Protection Order (PSPO) in Wisbech needs to be added to 3.1 of Appendix A. Richard Cassidy said the list was not exhaustive as legislation changes constantly hence why the examples given are generalised.
6. Councillor Count reiterated the usefulness of public consultation feedback prior to the Committee. He asked if the charges associated to Statutory Notices on 2.3 of Appendix A, could be applied to any other areas in the Council. Richard Cassidy said this depends on legislation and generally the Council can recover any additional costs through the Courts once a Statutory Notice has been served. Councillor Count suggested that this plan should form part of the Council's Corporate Strategy. Richard Cassidy agreed to consider this in the Corporate Plan next year.
7. Councillor Count asked why there were no specified locations mentioned in point 3.1 of Appendix A. Richard Cassidy confirmed that the locations are not specified as this will allow the Council to make any amendments to where parking controls apply without having to amend the policy.
8. Councillor Count asked if the wording could be changed in relation to the 5.5 of Appendix A. Richard Cassidy said guidance relating to this is set by the Home Office and the wording relates to the statutory meaning of Formal Cautions.
9. Councillor Booth asked if the Equality Impact Assessment applies to this policy the same as the Housing Enforcement Policy. Richard Cassidy confirmed it did.
10. Richard Cassidy highlighted to members the third bullet point on page 57 is missing the

word 'or' and agreed to change this.

OSC/7/18 DRAFT OVERVIEW AND SCRUTINY ANNUAL REPORT

Members considered the Draft Overview and Scrutiny Annual Report.

Members asked questions, made comments and received responses as follows;

1. Councillor Boden thanked Councillor Yeulett, the previous Chairman of the Overview and Scrutiny Panel, for his work on the Committee which is reflected in the report.
2. Councillor Booth asked that the format of the report is amended as there are errors. Anna Goodall agreed to this.
3. Councillor Boden asked if a point could be made in the report regarding public engagement as he is keen to include feedback from members of the public in future meetings. Anna Goodall agreed to add this.
4. Councillor Booth agreed and asked if the Committee will decide on the items brought forward to the Committee as this will allow greater public transparency. Anna Goodall agreed however said members need to consider the political period next year and the impact this may have on items coming to the Panel. Councillor Count asked for clarification on Councillor Booth's proposal. Councillor Booth said members of the Committee should get access to questions raised by the public and decide what is brought forward to meetings. Councillor Boden added that there will be a criteria in place for these items and they will be reported to the Committee anonymously. Councillor Count said he was happy for these items to be decided by the Chairman and members call-in process, as per the Constitution.
5. Councillor Booth said the focus needs to be on wider public engagement. Councillor Count agreed but said there is a risk that the public will bring politically-motivated items to the Committee, therefore the process needs to be sufficient in deciding what is heard at Committee level.
6. Councillor Boden suggested we proceed with the proposal and the Chairman and Vice-Chairman will report the level of comments received from members of the public, to the Committee.

OSC/8/18 FUTURE WORK PROGRAMME

Members agreed the Future Work Programme 2018/19 for the Overview and Scrutiny Panel subject to the following comments;

- The Public Engagement item is added to the Agenda for the meeting on 30 July 2018.
- Councillor Booth asked if training for members could also be considered. Anna Goodall confirmed she would look into this. Councillor Boden suggested that officers provide 'update' training for current members, with full training planned for the start of the next Municipal Year.
- Councillor Count asked if an item relating to benchmarking in relation to Corporate Spending, could be added to a future meeting date. Anna Goodall confirmed she would consider this.

5.01 pm

Chairman