

MINUTES OF SCRUTINY COMMITTEE

MEETING DATE Monday, 6 November 2017

MEMBERS PRESENT: Councillors Matthew Tomlinson (Chair), Colin Coulton (Vice-Chair), Michael Green, David Howarth, Susan Jones, Keith Martin, Barbara Nathan, Michael Titherington, Karen Walton, Ian Watkinson and Linda Woollard

CABINET MEMBERS: Councillor Colin Clark (Deputy Leader and Cabinet Member for Corporate Support and Assets), Councillor Peter Mullineaux (Leader), Councillor Phil Smith (Cabinet Member for Regeneration and Leisure), Councillor Susan Snape (Cabinet Member for Finance) and Councillor Graham Walton (Cabinet Member for Neighbourhoods and Streetscene)

OFFICERS: Darren Cranshaw (Scrutiny & Performance Manager), Dave Lee (Democratic Services Officer), Mark Gaffney (Director of Neighbourhoods, Environmental Health and Assets) and Dave Whelan (Legal Services Manager/Monitoring Officer)

OTHER MEMBERS: Councillor Jane Bell, Councillor Paul Foster (Leader of the Opposition), Councillor Mary Green, Councillor Claire Hamilton, Councillor Michael Nathan, Councillor Michael Nelson, Councillor Margaret Smith and Councillor Paul Wharton

PUBLIC: 68

22 Apologies for Absence

An apology for absence was received from Councillor Carol Chisholm.

23 Declarations of Interest

Councillors Karen Walton and Michael Green both declared a personal interest in minute no. 24.

24 Call-in Request - Dog Control Orders / Public Open Space

Councillor Karen Walton declared a personal interest as she had a family connection with the Cabinet Member, but was able under the Code of Conduct for Elected Members, to remain in the meeting during the consideration of this item.

Councillor Michael Green declared a personal interest as this had been previously discussed within his political group prior to the decision being made at the recent Cabinet meeting, but was able under the Code of Conduct for Elected Members, to remain in the meeting during the consideration of this item.

At the commencement of the meeting, the Chair explained the role of the Scrutiny Committee and how it had powers to call-in a Cabinet decision before it was implemented.

The Chair added that the Scrutiny Committee would look at whether the decision made complied with the Council's decision making process. If the Scrutiny Committee believed that this had not been complied with it could then refer the matter back to Cabinet for reconsideration. The Chair reminded everyone that this was not a public meeting and was not to amend the Cabinet's decision on Dog Control Orders/Public Space Protection Orders. However, he would allow the public to ask questions and contribute at the end of the meeting.

The Chair welcomed the Cabinet Member for Neighbourhoods and Streetscene, the Director of Neighbourhoods, Environmental Health and Assets and the Legal Services Manager (Monitoring Officer) and thanked them for their attendance.

Director of Neighbourhoods, Environmental Health and Assets addressed the committee and responded to comments and enquiries.

The Director explained the background and context for bringing the report forward to Cabinet. The Council had Dog Control Orders for a number of years and those orders enabled the Council to enforce issues around dogs. Those orders were due to expire in October 2017 and replaced by Public Space Protection Orders (PSPO). A consultation took place to obtain the views of the public on how they felt about these orders. The only main concern that the Council received from the public was that the restriction of dogs to individuals should not be considered. Following this consultation process the Director indicated that he had recommended to the Cabinet that the recommendations be supported except this (the maximum of dogs under the control of an individual) and that this be kept under review to build up an evidence based/complaints history around people with multiple dogs on the lead. This would be for 6/12 months before the matter was reconsidered on whether to introduce that Order. The Director felt at the time that if this Order was made, the Council may struggle to withstand an appeal against this decision.

The consultation strategy was to consult the general public (including statutory consultees) but did not target any specific group. The Director added that the Cabinet Member was fully aware of the consultation responses which subsequently formed the report to Cabinet. All recommendations were fully discussed with the Cabinet Member and he was aware of the risk that that recommendation may not withstand an appeal against that particular Order. The maximum number of dogs allowed on leads that was put in the draft Order was based on research carried out at other local authorities that actually introduced this Order. Ultimately the figure was down to the local area. The Director was not aware of the amendment to that decision until it was made by Cabinet on the night.

Although he understood the reason why the Cabinet felt so strongly about the decision, however the Director's view was that there should have been a further period of monitoring before the matter was reconsidered.

The Legal Services Manager (Monitoring Officer) addressed the committee and responded to comments and enquiries.

The Manager confirmed that Legal Services contributed and gave advice to this report to try and establish a robust evidence base so that if any of the proposed recommendations were challenged the Council would have a good chance of resisting the challenge.

The Manager added that he was not aware of any complaints/issues of any individuals walking a number of dogs. In this particular Order it did not appear that there was enough public support based on the consultation carried out.

To introduce a PSPO, the Manager felt that there should be clear evidence to demonstrate that there was a need for it. The evidence required would be if there was an issue; there were problems being caused; there were issues taking place; there were a history of complaints etc. The consultation itself and the responses received would also contribute to evidence.

The Manager indicated that he was not aware of the amendment made at cabinet until the decision was made by Cabinet on the night, however he acknowledged that members did not always follow/obliged to follow officers' advice. The Manager felt that it would have been helpful if prior notice was given but that did not happen. The Manager added that a further consultation exercise would have been ideal given the level of public interest generated which would have put the Council in a more informed position on whether the Order should be made or not.

The Manager said that he did provide legal advice at the meeting on the night and Cabinet was fully aware of the risk that the Order may be challenged.

Under the Council's Policy Framework, the Manager indicated that he was satisfied that it was a Cabinet decision and did not require full Council approval.

The Cabinet Member addressed the committee and responded to comments and enquiries.

The Cabinet Member explained his role in bringing the report forward to Cabinet.

The Cabinet Member informed the meeting that he went through the report with officers. The amendment was made following his political group meeting to restrict the number of dogs on a lead to 4. He felt (with the agreement of Cabinet) that this was an appropriate amendment to make at the Cabinet meeting following concerns from the general public on how many dogs an individual could control. The council had never had a specific number and that the recommended number came from other authorities which had this Order in place.

The Cabinet Member indicated that Cabinet had the right to make decisions and that he did not take advice from any statutory officers on the amendment to the recommendation. The Cabinet Member felt that health and safety of the general public were the main reasons in restricting the number of dogs on a lead an individual could have.

The Cabinet Member agreed that the 146 responses received did not fully provide a complete picture of what the general public expected and given the level of public interest, he acknowledged that the Cabinet should relook at the consultation strategy in the future.

The Cabinet Member confirmed that his political group contributed to the original consultation.

The Leader (in the audience) clarified that the administration through its political group made the decision to amend the recommendations. The Leader felt that the question at the consultation was not explicit enough and it was decided that the Cabinet should not hold back the decision and move this matter on accordingly.

In the light of the comments/statements and enquiries made, the Scrutiny Committee felt that –

- it was clear that the principles of the Council's decision making process had not been complied with.
- there was insufficient evidence in the consultation response to base the decision on.
- there was a need to look at robust consultation exercise.
- there was a need to look at the reason why the consultation was in a shorter period in terms of getting that level of responses.
- further consideration should be given as to whether it was appropriate to put significant amendments forward on the night without statutory officers' advice.
- it would like to see a stronger evidence based before decisions were made.
- when decisions were taken, especially when there were changes to what had been originally proposed that a complete rationale on any changes be provided in the future.

It was noted that responsible dog owners/walkers did a great job however there was a small number of irresponsible people out there which the Scrutiny Committee acknowledged the Cabinet Member/Cabinet were trying to deal with.

The Scrutiny Committee further noted that there were professional dog walkers which have not had any dialogue with the Council in the past which were in attendance to say that they wanted to assist the Council in the future.

Although the council did not have Dog Wardens however the Scrutiny Committee confirmed that the Council had Neighbourhood Officers to monitor dog fouling. There were a number of ways to report these matters some of these being the Council's Gateway and its social media site.

RESOLVED –

- A. (8 Yes, 0 No, 3 Abstention) that the matter be referred back to Cabinet for reconsideration in the light of the nature of concerns expressed by the Scrutiny Committee; and –
- B. (unanimously) that the Scrutiny Committee thanks those who attended and contributed and that the following be also recommended for the future:
 - 1. More robust consultation exercises be undertaken, including extended timescales and involvement of all stakeholders.
 - 2. Statutory officer and Director's advice is sought before tabling recommendations at meetings.
 - 3. Greater evidence based/documented decision-making.
 - 4. Provide the rationale for any changes to recommendations.

Chair

Date