

APOLOGIES Committee Services
Email: Committee.clerk@maldon.gov.uk

DIRECTOR OF STRATEGY,
PERFORMANCE AND
GOVERNANCE
Paul Dodson

12 January 2022

Dear Councillor

You are summoned to attend the meeting of the;

OVERVIEW AND SCRUTINY COMMITTEE

on **THURSDAY 20 JANUARY 2022** at **7.30 pm**

in the **Council Chamber, Maldon District Council Offices, Princes Road, Maldon.**

Please Note: Due to current social distancing restrictions the Council is limited on the number of physical attendees in a meeting. Therefore, members of the public wishing to speak under the Public Participation Protocol are requested to attend remotely via Microsoft Teams. Members of the press are advised to view the meetings via the Council's YouTube channel: <https://www.maldon.gov.uk/watchlive> where all meetings are streamed live.

To register your request to speak please submit a [Public Access form](#) (to be submitted by 12noon on the working day before the Committee meeting).

A copy of the agenda is attached.

Yours faithfully



Director of Strategy, Performance and Governance

COMMITTEE MEMBERSHIP:

CHAIRMAN	Councillor V J Bell
VICE-CHAIRMAN	Councillor C Mayes
COUNCILLORS	M G Bassenger Miss A M Beale B S Beale MBE R P F Dewick M W Helm B B Heubner C P Morley N J Skeens





AGENDA OVERVIEW AND SCRUTINY COMMITTEE

THURSDAY 20 JANUARY 2022

1. **Chairman's Notices**

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 5 - 6)

To confirm the Minutes of the meeting of the Overview and Scrutiny Committee held on 14 October 2021 (copy enclosed).

4. **Public Participation**

To receive the views of members of the public of which prior notification in writing has been received (no later than noon on the Tuesday prior to the day of the meeting).

Should you wish to submit a question please completed the online form at www.maldon.gov.uk/publicparticipation.

5. **Disclosure of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, other Pecuniary Interests or Non-Pecuniary Interests relating to items of business on the agenda having regard to paragraphs 6-8 inclusive of the Code of Conduct for Members.

(Members are reminded that they are also required to disclose any such interests as soon as they become aware should the need arise throughout the meeting).

6. **Review of Recent Scrutiny Requests by Members** (Pages 7 - 20)

To consider the report of the Overview and Scrutiny Working Group, (copy enclosed).

7. **Process Improvement Representatives** (Pages 21 - 22)

To consider the report of the Director of Strategy, Performance and Governance (copy enclosed).

8. **Scrutiny Workplan Item - Proposed Conversion of Seating Shelter at Promenade Park Maldon into a Service Kiosk** (Pages 23 - 28)

To consider the report of the Director of Strategy, Performance and Governance (copy enclosed).

9. **Any other items of business that the Chairman of the Committee decides are urgent**

NOTICES

Recording of Meeting

Please note that the Council will be recording and publishing on the Council's website any part of this meeting held in open session.

Fire

In the event of a fire, a siren will sound. Please use the fire exits marked with the green running man. The fire assembly point is outside the main entrance to the Council Offices. Please gather there and await further instruction.

Health and Safety

Please be advised of the different levels of flooring within the Council Chamber. There are steps behind the main horseshoe as well as to the side of the room.

Closed-Circuit Televisions (CCTV)

Meetings held in the Council Chamber are being monitored and recorded by CCTV.

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**MINUTES of
OVERVIEW AND SCRUTINY COMMITTEE
14 OCTOBER 2021**

PRESENT

Chairman	Councillor V J Bell
Vice-Chairman	Councillor C Mayes
Councillors	B B Heubner
In attendance	Councillors K M H Lagan and C Morris

333. CHAIRMAN'S NOTICES

The Chairman welcomed everyone to the meeting and went through some general housekeeping arrangements for the meeting.

334. APOLOGIES FOR ABSENCE

Apologies of absence were received from Councillor M G Bassenger and M W Helm.

335. DISCLOSURE OF INTEREST

Councillor C Morris declared that in relation to Agenda Item 6 report on Requested Scrutiny Items he was acquainted and a fellow Parish Councillor.

336. PUBLIC PARTICIPATION

The Chairman advised that she had given her permission for Councillor C Morris, who was in attendance, to speak.

Councillor Morris referred to the Agenda Item 6 and the scrutiny item related to the decision-making processes associated with the proposed conversion of a seating shelter at Promenade Park and it being inaccessible to people with disabilities. Councillor Morris questioned why the Committee were not scrutinising non-disclosure agreements made by the Council.

In response the Chairman agreed there should be way for all Members to request items to be scrutinised by the Committee. She advised that she would research how to facilitate this in time for the next Working Group meeting.

337. REPORT ON REQUESTED SCRUTINY ITEMS

The Committee considered the report of the Overview and Scrutiny Committee Working Group (the Working Group) updating Members on discussions and recommendations from the Working Group on two requested scrutiny items.

The report set out the review of two scrutiny items that had been reviewed by the Working Group.

The first, from Councillor K M H Lagan regarding the decision-making processes associated with the proposed conversion of a seating shelter at Promenade Park. This had been supported by the Working Group for inclusion in the Committee's workplan and detailed in Appendix A to the report. It was noted that Officers had drafted several questions to be addressed through scrutiny.

The second request was from Councillor C Swain in relation to flood risk in Heybridge and the various agencies involved with a variety of different assets. The detail of this request was set out in the report and the Chairman reported that the Working had concluded that as this was essentially an information gathering exercise and Officers had provided an explanatory note of the Council's responsibilities and Officers were prepared to run a question and answer (Q&A) session for Members to promote greater understanding and assurance. This approach had been supported by the Working Group for endorsement by the Committee. The Working Group had also observed that there was still a flooding problem in Heybridge and the Council's understanding of the reason for this needed to be better communicated to the public.

The Chairman moved the recommendations as set out in the report and these were agreed by assent.

RESOLVED

- i) That the recommendation of the Working Group on the requested scrutiny item (Councillor K Lagan) as set out in Appendix A to the report be noted and added to the Scrutiny Workplan;
- ii) That the conclusions of the Working Group in relation to the request by Councillor C Swain that this item is not added to the Scrutiny Workplan but dealt with as set in paragraph 3.3 of the report, be noted.

There being no other items of business the Chairman closed the meeting at 7.41 pm.

V J BELL
CHAIRMAN



REPORT of OVERVIEW AND SCRUTINY WORKING GROUP

to
OVERVIEW AND SCRUTINY COMMITTEE
20 JANUARY 2022

REVIEW OF RECENT SCRUTINY REQUESTS BY MEMBERS

1. PURPOSE OF THE REPORT

- 1.1 To update the Committee on recent Working Group meetings and recommend courses of action on recent Member requests for scrutiny items.

2. RECOMMENDATIONS

- (i) That the Committee reviews the detailed forms attached as **APPENDIX B** and is assured that the Working Group process is happening effectively;
- (ii) That the Committee approves the recommended courses of action suggested by the Working Group as set out in section 3.3 below.

3. SUMMARY OF KEY ISSUES

- 3.1 The Working Group met on 29 November and 10 December 2021 to review four Member form submissions that have been received since the last meeting of the Overview and Scrutiny Committee. The receipt of a fifth was reported to the second meeting.
- 3.2 The Working Group had regard to the adopted principles of scrutiny items, see **APPENDIX A** as agreed by the Committee in October 2020 in reviewing the items and recommending a course of action.
- 3.3 A pro-forma for each of these requested items together with brief Officer comments by way of background explanation and context is set out in **APPENDIX B** to this report, and the Committee is asked to adopt the recommended approach as set out for each item. In summary, this is as follows:

Accuracy of Self-Build Register (No. 11) - No actual area of scrutiny has been defined for an item to be included in the Committee's workplan.

Park Team Culture and Health and Safety concerns (No. 13) – the potential scoping activity provides a good level of assurance with a range of work in progress. The need for further scrutiny work is not required at this stage, and on the basis of the information now presented the Working Group keeps the matter under review and seeks a further report in six months.

Learning from a recent Employment Tribunal decision (No. 12) - a learning outcomes review led by Human Resources has been endorsed by the Corporate Leadership Team. This response is received by way of assurance as to learning outcomes and no further report or scrutiny is required.

Planning Enforcement – lack of action, backlog of unresolved items (No. 14) – there is little or no merit in scrutinising this process while steps are being taken to increase the resourcing of Planning Enforcement in line with a Policy review undertaken last year.

Following up/checking compliance with planning conditions (No. 15) – this request is brought forward as an adjunct to the above item as it was received too late for a preliminary response to be prepared for the Working Group. It has been treated as a request for information/clarification to which a response was provided. This request insofar as it relates to following up planning conditions can continue to be included as part of the wider subject request on planning enforcement (no. 14).

4. CONCLUSION

- 4.1 In line with the agreed process for review of possible Overview and Scrutiny workplan items, the feedback and recommendations from the recent Working Group meetings are presented for the Committee's consideration.

5. IMPACT ON STRATEGIC THEMES

- 5.1 Robust overview and scrutiny work and learning from what comes out of it contributes to the performance and value theme of the Corporate Plan.

6. IMPLICATIONS

- (i) **Impact on Customers** – None
- (ii) **Impact on Equalities** – None
- (iii) **Impact on Risk** – Items outlined in Appendix B are linked to Corporate Risk
- (iv) **Impact on Resources (financial)** – Matters arising may have resource implications
- (v) **Impact on Resources (human)** – Matters arising may have resource implications
- (vi) **Impact on the Environment** – None
- (vii) **Impact on Strengthening Communities** – None

Enquiries to: Cheryl Hughes, Programmes, Performance and Governance Manager.

Purpose and Protocol / working practices for the Overview and Scrutiny committee

From November 2020, the Overview and Scrutiny Committee sits as 10 members, who are not serving on either the Performance, Governance and Audit or Strategy and Resources Committees.

The committee Terms of Reference can be found at:

<https://democracy.maldon.gov.uk/documents/s19942/Terms%20of%20Reference%20-%20Overview%20and%20Scrutiny%20Committee.pdf>.

The Working Group established and reporting to this committee will include Four members and:

- Review items of scrutiny suggested by members according to specific criteria and outcomes.
- Identify the details of scrutiny items e.g. specific outcomes, timescales and lead officers.
- Recommend a workplan for approval of the Committee.

The committee:

Will –

- Seek to confine its meetings to the carrying out of actual scrutiny work.
- Arrange for the review of Member suggestions for items and review validity of items based on set criteria, prior to inclusion in its Workplan.
- Be positive and forward looking including providing ‘critical friend’ challenge.
- Identify future improvements that will help the way the Council runs its business and provides public services.
- Seek to demonstrate added value from the scrutiny process.
- Review readiness for emerging strategy and future planning.
- Help Council and other Committees do their work better.
- Produce defined outcomes associated with each scrutiny item.
- Manage ‘watching brief’ items for areas of concern where the need for or the precise area of scrutiny has not been identified - to be picked up by the Working Group (e.g. lessons learned from Project Management Office).
- Refer potential scrutiny items to the working group for thorough review, and receive reports on items to be added to the workplan.
- Receive finalised Scrutiny reports and recommendations for review.
- Make recommendations to Council and other Committees on conclusions arising from scrutiny.

Won't –

- Develop a workplan based on 'pet projects' of individual Members or matters that should be properly dealt with elsewhere, e.g. via another Committee's remit.
- Duplicate review work being undertaken elsewhere, e.g. by another Committee.
- Look backwards or be focussed on blame, rather than come from a place of 'lessons learned'.
- Use Committee Meetings as a forum for receiving information, discussing/ planning the detail and validity of suggested scrutiny items.
- Accept items where Officers have not yet been approached and asked for response/ further detail on a matter.
- Accept items where they fall in the remit of another committee, and that committee hasn't made the referral, or first reviewed it within their Committee.
- Have a standing item for 'any other items of scrutiny members wish to consider' as under the proposed new process is designed to accommodate this.

**Terms of Reference
Working group of the Overview and Scrutiny Committee**

The working group will be made up of four Overview and Scrutiny committee members, and meet in the daytime in advance of the Committee meetings to consider, review and recommend to the Committee on:

1. Review new scrutiny item requests in accordance with the process and criteria established by the Committee and report to the Committee on valid and identifiable scrutiny items for inclusion in the Committee's Workplan.
2. Keep under review any other matters where the Committee has identified a need to seek information or to maintain a 'watching brief' pending the identification of a scrutiny item.
3. Support the Committee as directed in the planning of scrutiny work, including proposing timetables and expected Scrutiny Outcomes.

The Working Group meetings will include relevant officers where more detailed discussion can help inform these decisions.

N.B. in the March meeting, the agreed Members for this group were Councillors R H Siddall, V J Bell, M W Helm, and M S Heard.

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Overview and Scrutiny Committee Working Group – November/December 2021Review of scrutiny item requests

Scrutiny request pro-forma	Request details
No. 11	
1. Member request	Councillor S White
2. Area of scrutiny requested and reasons for it	Inaccurate record keeping for statutory registers for self build
3. Indicate which part of the Committee's remit the request falls within	Matters relating to corporate risk and affecting the Council's area or the inhabitants of the area. Incorrect figures
4. If other, give further details	Self-build register inaccuracies.
5. Has the matter been raised directly with Officers or another Committee?	No
6. If yes to 5, give further details including dates and any response	N/A
7. Expected outcome of this requested scrutiny item	

Officer review and comments

1. In seeking to clarify with Councillor White the exact nature of the alleged inaccuracy and what it was she wished to see scrutinised, she raised various questions regarding the register and permissions granted for self-build development. She indicated that subject to the response to these questions she might be able to define the actual scrutiny required. A response was sent to Councillor White on 14 November 2021 and to date nothing further has been received, and therefore at present this request must be regarded as one seeking information and where no actual cause for scrutiny has been identified.
2. By way of background, the Council has a statutory duty to maintain a register of people who are interested in self-build or custom-build projects in the District. This register will help inform the level of demand for self-build and custom-build plots in the District. Part 1 relates to local demand and Part 2 is for general demand. Here is a link to the Council's website with relevant data for the various base periods -

[Self-build and custom house building | Self-build and custom house building | Maldon District Council](#)

3. As has been pointed out to Councillor White, there are two important points of context. First, the Council reviewed the register in 2018 by way of report to the then Planning and Development Committee when all existing persons on the register were contacted in relation to the agreed introduction of a local connection test for new applicants. Second, while certain planning applications in the past were clear as to being 'self-build' proposals, the inclusion of a tick box to that effect on the standard application form was only introduced in 2020. Alongside the grant of permission for specific 'self-build' proposals, the Council has always monitored the number of planning permissions granted for suitable serviced plots of land/small outline permissions that would be suitable for self-build.
4. The Working Group on 29 November 2021 agreed to recommend that no actual issue of scrutiny had been defined for an item to be included in the Committee's workplan.

Scrutiny request pro-forma	Request details
No. 13	
1. Member request	Councillor V Bell
2. Area of scrutiny requested and reasons for it	Persistent concerns within the Parks Team, including an alleged culture of bullying and breaches of health and safety regulations
3. Indicate which part of the Committee's remit the request falls within	Matters relating to the delivery of the Council's Priorities
4. If other, give further details	N/A
5. Has the matter been raised directly with Officers or another Committee?	Previously raised concerns over health and safety with Director of Service Delivery
6. If yes to 5, give further details including dates and any response	
7. Expected outcome of this requested scrutiny item	To ensure that health and safety regulations are followed at all times by staff, and to ensure that bullying has no place within MDC, and that whistle blowers are protected.

Officer review and comments

1. It appears that this matter would fall within the Committee's remit for potential scrutiny, though references to "Persistent concerns" and "alleged culture" may require some further definition and to be evidenced.
2. In response to recent concerns, the management capacity has been increased within this area of work by the provision of an interim Operations Manager, a Health and Safety Consultant and additional support from the HR team.

3. There is an ongoing focus on Health and Safety with working group meetings identifying priorities to address. The profile of Health and Safety is being raised internally with the re-constitution of the Staff Health and Safety Committee with departmental/service are representatives. This is an independent Officer-level group with legal status through which health and safety concerns can be reported in addition to the traditional route of the line manager and where requests for improvements and action can be fed to the Council's Health and Safety Officer. Outcomes will be shared with Members through the normal reporting to the Performance, Governance and Audit Committee.
4. An action plan to address issues, which have arisen from a comprehensive disciplinary investigation, has been developed and will be shared with relevant managers and monitored via a working group, chaired by the Specialist Services Manager, Service Delivery Directorate.
5. There is ongoing and regular dialogue between the interim Operations Manager and HR on staffing issues. Issues of concern regarding language and behaviour will be addressed robustly and consistently within the HR policy framework.
6. The Council has agreed a new Equality, Diversity and Inclusion policy and also developed a supporting learning and development action plan with a focus on language and behaviours. This will be delivered over the coming months.
7. It is likely that Members will be asked to consider growth bids to improve resource levels designed to support identified improvement actions, and the PGA Committee will be routinely updated on the Health and Safety matters.
8. It is confirmed that under the Whistleblowing Policy safeguards are provided for whistleblowers.
9. The Working Group at its meeting on 29 November 2021 agreed that the potential scoping activity provided a good level of assurance with a range of work in progress. It was further agreed that it be recommended to the Committee that the need for further scrutiny work is not required at this stage, and on the basis of the information now presented the Working Group keeps the matter under review and seeks a further report in six months.

Scrutiny request pro-forma	Request details
No. 12	
1. Member request	Councillor V Bell
2. Area of scrutiny requested and reasons for it	Having read the recent employment tribunal outcome, I believe we need to look at why the proper recruitment procedures were not followed in this case, whether this was an isolated incident, and find a way to ensure that this does not happen again
3. Indicate which part of the Committee's remit the request falls within	Matters involving the scrutiny of decisions made or actions taken
4. If other, give further details	.
5. Has the matter been raised directly with Officers or another Committee?	No.
6. If yes to 5, give further details including dates and any response	
7. Expected outcome of this requested scrutiny item	To understand what went wrong and to ensure that steps are put in place to avoid this happening again.

Officer review and comments

1. It is confirmed that the nature of this request relates to an area within the remit of the Committee.
2. It is confirmed that the normal recruitment policy and process and organisational change policy are followed when recruiting to roles in a transformation of this nature. On occasions, the process may be varied as happened in this case with the inclusion of the interim HR Consultant on the panel to mitigate the difficult relationship issues within the team. This clearly has been seen as not enough on this occasion but was thought to be a reasonable adjustment at the time. The opportunity to seek the assistance from neighbouring authorities to support selection processes in such cases will be considered and explored in the future.
3. The role of HR on this occasion was to deliver the transformation. However early and independent consideration of resources, including the right level of people professional resource, not impacted by the change process, to support the implementation at all stages is critical. This will ensure the appropriate challenge at the right time to enable risk to be identified and mitigated.
4. In the previous scrutiny of the Transformation Process undertaken by the Committee see **APPENDIX A** the following pertinent learning outcomes were identified:

Due to the speed and nature of the operating model process, Training and outcomes were delivered by Ignite and consultancy staff. This has meant Human Resources and management staff have had to take time and build knowledge to become custodians of the structure to be able to embed what was set out (WP1).

The impact of so few staff being job matched, and the higher than expected staff turnover had an immediate impact on project delivery and Staff Wellbeing (WP2), but latest staff survey results shows that staff satisfaction in this area has since increased

5. In the light of the Tribunal decision there has been a learning outcomes review fed back to CLT. In summary, its general conclusions are as follows:
 - As in all organisational change, process is key as well as identifying the timetable to ensure that the process can be followed with the input of all stakeholders within realistic timescales.
 - The identification of stakeholders up front is essential with the right level of professional support to enable scrutiny and challenge not only of the process, but the fundamentals and principles of the model proposed.
 - There is a need to ensure that staff delivering the process are engaged throughout whether that is to undertake the internal lead or to ensure implementation.
 - Provision of change management training and support for managers and staff.
 - For future processes, if there are concerns, that there is a mechanism for review and reflection on general or specific issues with consideration of legal opinion as appropriate

6. The Working Group at its meeting on 10 December 2021 noted in relation to the previous scrutiny request on concerns as to the behavioural culture in the Parks Team that various organisational changes had occurred since the Transformation Process, and was content to receive the above response by way of assurance as to learning outcomes and recommend to the Committee that no further report or scrutiny is required.

Scrutiny request pro-forma	Request details
No. 14	
1. Member request	Councillor M Bassenger
2. Area of scrutiny requested and reasons for it	Enforcement, the lack of action i.e. site visits and communication between Officers and the clients. To understand the long list of outstanding unresolved cases.
3. Indicate which part of the Committee's remit the request falls within	Matters relating to the review of Corporate Policy. Matters involving the scrutiny of decisions made or actions taken. Matters affecting the Council's area or the inhabitants of the area, including the draft budget.
4. If other, give further details	.
5. Has the matter been raised directly with Officers or another Committee?	No.
6. If yes to 5, give further details including dates and any response	
7. Expected outcome of this requested scrutiny item	For this department to be fit for purpose.

Officer review and comments

1. It is confirmed that the nature of this request relates to an area within the remit of the Committee.
2. For clarification, this request relates specifically to Planning Enforcement, and Councillor Bassenger is concerned about both the extent and history of the list of outstanding actions and the impact of the lack of action on the Council's reputation. He wishes to see the process and resourcing for Planning Enforcement made fit for purpose.
3. While it is true there is a 'backlog' of outstanding cases, there is an important context against which any review needs to be considered. First, it is important to understand how Planning Enforcement resourcing was affected by Transformation Programme, and second a review of the Council's Enforcement Policy was undertaken towards the end of last year
<https://democracy.maldon.gov.uk/documents/g2313/Public%20reports%20pack%2024th-Nov-2020%2018.00%20Strategy%20and%20Resources%20Committee.pdf?T=10>

4. While the review sought a more succinct and realistic set of timelines in relation to the process, its full implementation was predicated on the availability of additional resources. The Council is currently advertising for two additional posts dedicated to Planning Enforcement. It appears that if the Council is successful in recruiting to these positions it will return the resourcing to a similar level to that prior to the Transformation Programme, although support from Planning Administrative staff will be required.
5. It is likely to be extremely difficult to draw many conclusions as to the nature and causes of the backlog, and inevitably the cause will be down to resourcing. The process for Planning Enforcement is not a mechanical one, and a diligent approach is required in all cases in view of the legal implications and the potential risk of challenge through appeal and subsequent awards of costs against the Council. Some of the longer outstanding cases can be seen as quite complex and which require significant concentrated effort to progress.
6. It would seem that if an opportunity is to be afforded to Officers with the benefit of additional resources to make inroads into the backlog as envisaged at that time of the Policy review last year, there is little or no merit in looking to scrutinise any aspect of the Planning Enforcement process at this time. The Working Group at its meeting on 10 December 2021 agreed to recommend to the Committee that a watching brief is kept on this item and that in the meantime further information is required as to what the approach will be towards the aspirations set out in the Policy review once the additionally resources are in place together with clarity as to the nature of the monthly lists of outstanding enforcement actions sent to Members.

Scrutiny request pro-forma	Request details
No. 15	
1. Member request	Councillor K Jarvis
2. Area of scrutiny requested and reasons for it	(Summary) Arising from discussion on application 21/00788/FUL at the District Planning Committee meeting on 2 December 2021 and the issue of the removal of trees, clarification required as to whether there was a condition on the original hybrid application or that the condition had been satisfied. Further, to what extent do any Officers of the Council check compliance with conditions, were the trees removed in compliance with or go beyond that covered by the original plans. On a wider point, to what extent is compliance with conditions checked by Officers. Concern as to a possible considerable number or conditions being breached but going undetected, thus making the imposition of conditions ineffective.
3. Indicate which part of the Committee’s remit the request falls within	Matters involving the scrutiny of decisions made or actions taken

4. If other, give further details	.
5. Has the matter been raised directly with Officers or another Committee?	No.
6. If yes to 5, give further details including dates and any response	
7. Expected outcome of this requested scrutiny item	Confirmation that in this case only those trees identified for felling were felled and that the Council has a process in place that routinely checks that such conditions are being complied with.

Officer review and comments

1. It is confirmed that the nature of this request relates to an area within the remit of the Committee.
2. This request was received too late to be explored sufficiently to enable preliminary consideration by the Working Group, however its receipt was reported to the meeting on 10 December 2021. The Working Group felt that this could be received and dealt with as an adjunct to the wider scrutiny item above requested by Councillor Bassenger, although for the present it was a request for information and would be pursued on the basis and any outcome reported to the Committee. Additionally, the Working Group felt it would be useful to have clarity on exactly what the process was for the following up and checking of planning conditions and whether this involved Enforcement or Planning Officers or both.

Update post-Working Group Meeting

While it is noted that Councillor Jarvis resigned as a Councillor subsequent to his submitting this request, he was provided with a response to his request for information and clarification of matters arising from discussion on a matter at a recent District Planning Committee meeting. This confirmed that firstly Officers did not have any evidence that the removal of trees had gone beyond what had been shown on the approved plans or in contravention of a planning condition, and secondly that should evidence of any contravention come to light then it would be dealt with as any other alleged contravention. In addition, discussions with the developers were continuing under the terms of Planning Performance Agreement and this would include the subject of trees, as considerable new planting was proposed. Councillor Jarvis was content with that, subject to his being kept updated, and for his request to be linked to the wider issue of enforcement as raised by Councillor Bassenger (request no. 14).

Should the Committee agree to accept the Working Group's recommendation on request no. 14, it would seem both reasonable and relevant to align request no. 15 to it insofar as it relates to an understanding of how the enforcement of planning conditions is dealt with as part of the overall approach to, and resourcing of the enforcement of planning control.



**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

**to
OVERVIEW AND SCRUTINY COMMITTEE
20 JANUARY 2022**

PROCESS IMPROVEMENT REPRESENTATIVES

1. PURPOSE OF THE REPORT

- 1.1 To seek two Member representatives to provide feedback and test new customer processes.

2. RECOMMENDATION

That the committee appoints two Members to work alongside the Process Improvement Team for website testing and customer feedback.

3. SUMMARY OF KEY ISSUES

- 3.1 The Performance, Governance and Audit Committee received a report on 18 November 2021 to share the Process Improvement Framework for the Council, and how this links to wider Value for Money requirements and Corporate objectives.
- 3.2 The full report that explains the intentions of process improvement at Maldon District Council and the workplan around improving customer journey and experience is linked in the background papers section of this report.
- 3.3 The intention is that learning from Overview and Scrutiny items that highlight process issues would also be picked up within this wider process improvement work, so it is very relevant to the work of this committee.
- 3.4 The report recommended *That the committee appoints two member representatives and seeks two representatives from Overview and Scrutiny committee at its next scheduled meeting, to work closely with the team around website testing and customer feedback.*
- 3.5 Performance, Governance and Audit Committee have appointed their representatives as Councillor Stephens and Councillor Fleming.

4. CONCLUSION

- 4.1 The Background of the Process Improvement Framework is provided, and Members are invited to nominate representatives to be included in this work.

5. IMPACT ON STRATEGIC THEMES

- 5.1 The improvement work and regular customer testing helps to contribute to 'Performance and Efficiency' Corporate goal.

6. IMPLICATIONS

- (i) **Impact on Customers** – additional ‘external’ feedback will help us build better processes for our customers and improve customer experience.
- (ii) **Impact on Equalities** – none.
- (iii) **Impact on Risk** – additional member feedback for process improvements helps to reduce risk around live poor-quality processes in the future.
- (iv) **Impact on Resources (financial)** – no additional resource to manage this programme of work.
- (v) **Impact on Resources (human)** – no additional resource to manage this programme of work.
- (vi) **Impact on the Environment** – none.
- (vii) **Impact on Strengthening Communities** – none.

Background Papers: Performance, Governance and Audit Process Improvement papers
[10 process improvement framework.pdf \(maldon.gov.uk\)](#)
[Appendix A.pdf \(maldon.gov.uk\)](#).

Enquiries to: Cheryl Hughes, Programmes, Performance and Governance Manager



**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

to
**OVERVIEW AND SCRUTINY COMMITTEE
20 JANUARY 2022**

**SCRUTINY WORKPLAN ITEM - PROPOSED CONVERSION OF SEATING SHELTER AT
PROMENADE PARK MALDON INTO A SERVICE KIOSK**

1. PURPOSE OF THE REPORT

- 1.1 To receive and consider information in response to the agreed scrutiny questions to be addressed in relation to this Workplan item.

2. RECOMMENDATION

That the responses to the specific scrutiny questions to be addressed provide sufficient assurance and understanding of the background to this matter so as to enable the Committee to conclude its work on this item.

3. SUMMARY OF KEY ISSUES

- 3.1 At the meeting of the Committee on 14 October 2021 (Minute 337 refers) it was agreed to add this item to the Scrutiny Workplan. The item, originally requested by Councillor K Lagan, sought to scrutinise the decision-making process in relation to this proposal. The Committee endorsed the scoping undertaken by its Working Group and agreed a range of questions to be addressed. A comprehensive report on this item and the questions to be addressed is at **APPENDIX A**.
- 3.2 It has not been asserted that Officers did not have the necessary powers to act or exceeded them. The report explains how the available powers were used and the process followed, which included engagement with Members. In response to the concerns expressed around the transparency of decisions made/actions taken under delegated powers, it is acknowledged that more can be done and to that end internal arrangements are being developed for the improved recording and quarterly publication of such decisions via the Council's website.

4. CONCLUSION

- 4.1 The scrutiny questions previously agreed by the Committee have been addressed, and the responses provide the Committee with the required assurance that the proper processes were followed. In relation to the need for improved transparency of delegated decisions/actions, this is already in the course of being implemented.

5. IMPACT ON STRATEGIC THEMES

- 5.1 Robust overview and scrutiny work and learning from what comes out of it contributes to the performance and value theme of the Corporate Plan.

6. IMPLICATIONS

- (i) **Impact on Customers** – The decision/action the subject of scrutiny was intended to be of benefit to the public.
- (ii) **Impact on Equalities** – None
- (iii) **Impact on Risk** – None
- (iv) **Impact on Resources (financial)** – The decision/action the subject of scrutiny was intended to be provide financial benefit to the Council.
- (v) **Impact on Resources (human)** – None
- (vi) **Impact on the Environment** – The decision/action the subject of scrutiny was intended to provide an improved facility.
- (vii) **Impact on Strengthening Communities** – None

Enquiries to: Cheryl Hughes, Programmes, Performance and Governance Manager.

SCRUTINY ITEM RESPONSE – PROPOSED CONVERSION OF A SEATING SHELTER AT PROMENADE PARK MALDON INTO A SERVICE KIOSK

1. Purpose

- 1.1 To provide the Committee with a full response relevant to the agreed scoping of this scrutiny item.

2. Background

- 2.1 The description of this scrutiny item as originally requested by Councillor K Lagan was as follows:

A review of the delegations used by Officers and the procurement process followed in the proposed conversion of a shelter into a service kiosk at Promenade Park. Lack of proper application of the Council's Contract Procedure Rules – Part 4 – failure to apply procedures to ensure best value and no open tender process to allow transparency of process.

- 2.2 The scoping of this scrutiny item in terms of the broad questions to be addressed were agreed by the Committee, following an initial assessment by its Working Group, as follows:

1. How Officers exercised the requisite delegated powers.
2. Whether this proposal involved actual procurement of goods or services such as to require compliance with the Contract Procedure Rules.
3. How this proposal came about, what it involves, and how it was dealt with by Officers.
4. To what extent 'operational' matters in relation to Promenade Park should be dealt with solely by Officers without involvement by Members given the obvious public interest and in the absence of a management plan for Promenade Park.
5. To avoid reputational damage, how can the transparency of delegated decisions be improved by greater information and publicity.

3. Context

- 3.1 In determining the questions to be addressed the Committee noted that the Working Group in its initial assessment was mindful that it was not being asserted that the necessary delegated powers did not exist or that Officers had stepped beyond them. In light of this, it was concluded that in a wider context there were concerns over the actual exercise of these powers in relation to certain operational matters.

4. Scrutiny Questions

Existence and use of delegated powers, and whether this involved the procurement of goods and services

- 4.1 The Council's Constitution includes a Scheme of Delegation which empowers Corporate Directors to make decisions and take actions on certain matters without the need to reference to the Council or a Committee. The Director of Service

Delivery has delegated powers to deal with operational matters relating to parks and open spaces, and in this respect 'parks' would include Promenade Park, Maldon, and the seating shelter would be regarded as a building within that park. He also has delegated powers in relation to Asset Management subject to certain parameters. The full terms of these powers are as follows:

41. *Operational issues relating to:*

- a) *Parks and public open spaces;*
- b) *Formal recreation area and any buildings therein and the letting of any stalls, kiosks and other operations thereon including lettings such as funfairs, circuses and other short-term lettings;*

56. d) *To negotiate the terms of new leases, including interim and initial rent both at market rent and in those cases where existing tenants have a statutory right to call for a new lease on expiry of the current term, and to authorise completion of such new leases up to an annual value of £15,000 and duration not exceeding seven years.*

56 e) *In consultation with the Chairman or Vice-Chairman of the Strategy and Resources Committee and the Leader, as (d) above in relation to leases with an annual value in excess of £15,000, but not exceeding £25,000, or tenure in excess of 7 years but not exceeding 14 years.*

- 4.2 The lease agreement for the converted shelter has an annual value of £10.5k for a six year period, and the associated use (not exclusive) of an area above the amphitheatre for seating is to be the subject of a licence with an annual value of £6k for a six year period. While the individual components clearly fall within 56 d), taken together they exceed the £15k threshold and therefore the consultation required in 56 e) was undertaken. There is no provision for any extension or renewal built in. The rental valuations compare favourably with those for the other retail kiosks at Promenade Park which are established businesses and for which a competitive process would be pursued for the renewal of their leases.
- 4.3 The Council's Contract Procedure Rules (also part of the Constitution) are made in accordance with section 135 of the Local Government Act 1972 and are intended to promote good purchasing practice and public accountability and deter corruption. These Rules require to be followed by all Officers involved in the purchase of goods and services on behalf of the Council. All purchasing or disposal procedures must ensure good value for money and propriety in the spending of public money. Since no procurement of any goods or services or the spending of public money was involved, the Contract Procedure Rules and the associated issues of best value and open tendering did not apply. This was accepted by the Committee's Working Group and supported by advice obtained by the Commercial Manager from both legal and procurement specialists at the time.

How this proposal came about, what it involves, and how it was dealt with by Officers.

- 4.4 The Commercial Manager was approached by a local business which requested a meeting to discuss development options within Promenade Park. Arising from this, the possible conversion of the seating shelter was discussed. The shelter was central to anti-social behaviour, drug taking and being used as a toilet when the Park

was closed at night. Officers felt the proposal to make something of the shelter was a positive one and not one previously considered. The other option which had been considered was demolition of the shelter.

4.5 While not a condition of the exercise of delegated powers in this instance, the Commercial Manager sought to provide informal updates to Members on a number of occasions as follows:

- 14/12/20 informal briefing with all BOC & Maldon ward members invited
- 11/01/21 (commercial activity meeting with Cllr Nunn, Cllr Stamp, Cllr Siddall, Cllr Swain, Cllr Mayes)
- 19/01/21 informal briefing with all BOC & Maldon ward members invited
- 02/03/21 informal briefing with all BOC & Maldon ward members invited
- 04/05/21 informal briefing with all BOC & Maldon ward members invited

In addition, 1:1 catch up briefings were offered to Members unable to attend.

4.6 A key objective of the role of Commercial Manager is to generate new income for the authority. It was believed that this approach and proposal represented a good opportunity in that respect and included significant investment in a Council asset. The decision to act and proceed under the available delegated powers did not attract any opposition at the time from any Councillors, some in fact giving strong support. The view that other potential commercial interests could have been pursued is acknowledged, however this may have risked the opportunity as presented being lost and the likelihood of the structure falling into a further state of disrepair and misuse, with potential resulting cost to the Council.

4.7 While the purpose of this scrutiny is to understand rather than justify the decision/action taken, it is worth noting that the proposal had the following features:

- New rental income for the Council
- Reduced maintenance liability for the Council (covered the lease agreement)
- Enhanced asset returned to the Council upon expiration of the lease term (potential for further income generation)
- Consistent with Local Development Plan Policy (E5 tourism)

4.8 The proposal was the subject of a planning application under reference FUL/MAL/0314/21 which was approved by the Central Area Planning Committee in June 2021. While this dealt simply with the evaluation of the material planning and policy considerations, and not the land management or related issues at the heart of this scrutiny item, it is noted that the Maldon Town Council recommended approval, and in terms of the public response there were 15 letters of support, one of comment, and five of objection (none relating to the land management/process). Officers have received no other objections to the proposal.

Operational Matters in relation to Promenade Park

4.9 Clearly there are a wide range of day-to-day operational matters undertaken, and the long-established delegated power for this does not set down any requirements or expectations as to how the power should be exercised. Equally, Officers accept the obligation on their part to keep Members advised of what is happening in their Wards or localities, and sense what may carry a higher profile or what is of community interest. In this respect, the Member/Officer Relations Protocol adopted by the Council provides that Officers shall ensure that where practicable and prudent they

will keep Members informed of issues affecting their Wards as the elected representatives of the Council, including stage 2 customer complaints.

- 4.10 In relation to Promenade Park there is no forum or other mechanism by which Members can be updated, although as indicated in 4.5 above opportunities were created for liaison and updating on this particular proposal. A possible outcome from this scrutiny review could be the escalation of a Management Plan for the riverside including Promenade Park, as highlighted in the Central Area Action Plan, together with a Working Group or other Member/Officer liaison group to support it.

Reputational Damage - Transparency of delegated decisions

- 4.11 The Council's Scheme of Delegation (referred to in para. 4.1) has its foundations in law (section 101 of the Local Government Act 1972), has been in place for several years, and was reaffirmed when the Council's new Constitution was adopted in 2019. While the intention of the Scheme is to provide clear parameters within which Officers can act, advice as to any interpretation required would be given in the first instance by the Council's Monitoring Officer, and ultimately by the Council itself should the need arise.
- 4.12 Some delegated decisions are required to be recorded and published due to the statutory nature of the function, for example in the areas of planning and public licensing. The Openness of Local Government Bodies Regulations 2014 strengthened the obligation to record and publish decisions the effect of which:
- (i) grant a permission or licence;
 - (ii) affect the rights of an individual; or
 - (iii) award a contract or incur expenditure which, in either case materially affects the relevant local government's body's financial position,

and there is a general obligation upon Authorities to look to extend publicity where possible. To that end, and in the interests of transparency and accountability, internal arrangements for recording and publicity are in the course of being revised and developed.

Report Author

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December 2021