

## COUNCIL - 16 NOVEMBER 2017

### QUESTIONS RAISED BY MEMBERS OF THE COUNCIL

1. **Question submitted by Councillor David Barton to Cabinet Member for Regeneration and Skills (Councillor Atkinson)**

“Can a formal cleaning and maintenance programme of the Marine Lake, specifically the Lower Island which circles the Lake that has become frequented by excessive vegetation growth and dog fouling left behind be initiated and at the soonest available opportunity given the great potential for Tourism Revenue to the Sefton Borough from visitors throughout the calendar year”?

**Response:**

“There is a schedule of cleaning and maintenance in place and the revetment edge is cleaned three times a year at the start, middle and end of the season (Easter, June, October). The number of swans and geese on the lake results in a large quantity of faeces being deposited on the revetment and within days of cleaning it, it has reverted to its original state. The public are discouraged from feeding the birds here as it is felt this contributes to the birds congregating on the revetment. The area is monitored on a monthly basis and additional cleaning undertaken as resources allow.”

2. **Question submitted by Councillor David Barton to Cabinet Member for Communities and Housing (Councillor Hardy)**

“Can Sefton Council formally adopt a procedure of allowing the Chief Executive to grant district funding for a community funding initiative should the said initiative be denied support from any of the district Councillors, especially if this is for a long-term project that has tangible value and can provide great benefits to not only the local community, but that of our local economy?”

**Response:**

“If squabbling ward Councillors cannot agree how to allocate their ward funds, I am always prepared to provide advice.”

3. **Question submitted by Councillor David Barton to Cabinet Member for Planning and Building Control (Councillor Veidman)**

“Can S106 funding that is awarded to districts across Sefton Metropolitan Borough including those key locations containing Conservation Areas be prioritised for urgent tree planting across the streets and roads contained within these, naturally excluding any designated parts strictly allocated for Hackney Taxi Bays?”

**Response:**

“The Neighbourhoods and Tree teams will liaise with ward members to determine the best locations for planting trees that have been secured through section 106 funding. As long as the spending accords with the section 106 agreement then ward members are welcome to identify locations they consider to be a priority for tree planting in their wards.”

4. **Question submitted by Councillor David Barton to Cabinet Member for Regulatory, Compliance and Corporate Services (Councillor Lappin)**

“Can civic assets be maintained more regularly to prevent costly replacement of these which may be incurred otherwise in the future, for example the Victorian Ornamental Lamp Posts along Lord Street and the Promenade, Southport which are showcased throughout the calendar year to prospective and incumbent investors and residents?”

**Response:**

“Sefton Council is always concerned to ensure the highest standards of maintenance in relation to all our historic assets within the severe budget constraints we are having to deal with on a day-to-day basis.”

5. **Question submitted by Councillor David Barton to Cabinet Member for Locality Services (Councillor Fairclough)**

“Can Sefton Metropolitan Borough Council consider and pursue formally purchasing hi-tech street cleaning equipment that can be used to preserve and indeed enhance our streets in key locations including prominent Conservation Areas, such as for example the MV700 Gladiator Chewing Gum Removal Machine which provides a gentle yet deep cleansing of the ground stonework?”

**Response:**

“This would need to be considered as a growth item in the forthcoming year as no budgetary provision currently exists.”

6. **Question submitted by Councillor David Barton to Cabinet Member for Locality Services (Councillor Veidman)**

“Can Sefton Council encourage and adopt a more traditionally and aesthetically appealing approach towards Planning Applications that seek to protect and wherever possible enhance Period Style Properties such as those from the Victorian, Edwardian and Georgian Eras?”

**Response:**

“With respect to any buildings or other land within a designated Conservation Area, it is a statutory duty that the Local Planning Authority shall, in consideration of a planning application, pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

For Listed Buildings, the Local Planning Authority in considering a Listed Building Consent application shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

The Local Planning Authority complies with these statutory duties, which are further reinforced within Sefton’s Local Plan adopted in April of this year.

For developments affecting sites outside of Conservation Areas and non-Listed Buildings, the Council would pay regard to general design, townscape and contextual circumstances associated with the particular location or plot, in line with Local Plan policies. Planning Applications which seek to ‘protect and wherever possible enhance period style properties’ would generally be policy compliant and therefore supported in principle.”

7. **Question submitted by Councillor David Barton to Cabinet Member for Locality Services (Councillor Fairclough)**

“Why has the Buckley Clay Tiling along Southern Lord Street been removed and replaced for sandstone flag stone along the Eastern cross-section of the pedestrian walkway and can this action so far taken yet be reversed?”

**Response:**

“The footway contained many broken and uneven tiles and areas of bitmac reinstatement. As the Council does not have a large enough store of spare tiles and cannot purchase new ones, the undamaged tiles have been used to create a verge strip and to provide edging details around the tree pits as has been done previously on other sections of footpath on Lord Street.”

8. **Question submitted by Councillor David Barton to Cabinet Member for Locality Services (Councillor Fairclough)**

“Can all road markings, especially those situated within time-limited restriction zones which have been worn down considerably be re-laid so as to prevent misinterpretation amongst motorists that conduct their business across the Borough?”

**Response:**

“The Council’s enforcement contractor will inform the Council if they feel that any lines or signs are worn to an extent that they are not visible and therefore not enforceable. The Council will then place orders for any remedial works required.”

9. **Question submitted by Councillor David Barton to Cabinet Member for Regulatory, Compliance and Corporate Services (Councillor Lappin)**

“Can a final warning system for motorists be launched when parking their motor vehicles across Sefton Metropolitan Borough so as to once again prevent any misunderstanding and prevent any long-term badwill amongst this large proportion of our society who utilise our car parking facilities?”

**Response:**

“All motorists who receive a Penalty Charge can submit an appeal and all appeals are given due consideration. There are no proposals to change this system as this time.”

10. **Question submitted by Councillor David Barton to Cabinet Member for Locality Services (Councillor Fairclough)**

“Can all defunct signage be removed if it is not possible to otherwise have this refurbished such as the signs at Market Street and Chapel Street, Southport leading to the Southport Market?”

**Response:**

“All current finger post and brown signage to Southport Market Hall is operational and serving an important wayfinding service to the many visitors of Southport. Discussions continue around the current Market Quarter gateway signs in order to come up with an acceptable resolution since one of the gateway signs suffered substantial damage due to a vehicle collision.”

11. **Question submitted by Councillor McKinley to the Leader of the Council (Councillor Maher)**

“Members will be aware of the local plan identification of land east of Maghull for housing and employment development, also including a local centre, open space and contributions to hard and soft infrastructure. You may also be aware that 2 planning applications have been recently submitted to Sefton council before the Council has reached agreement on a comprehensive Masterplan for the site and before Maghull town council has finalised its Neighbourhood Plan.

There is no information contained in the application to indicate whether there is any intention for the various landowners to collaborate on the implementation of comprehensive solutions for the site's associated infrastructure.

It is unclear how this will be implemented when only part of the site is being developed.

This is the largest single site allocated for development in the local plan and will be a hugely significant development for Maghull. Get it right and it could be transformational get it wrong and it could be catastrophic.

Can the Leader of the Council please give a categorical assurance that the Masterplan will be comprehensive and should accord with policy MN3 and any associated SPD, including a detailed infrastructure deliver plan(stipulated in the LEM SPD) that will guarantee that both hard and soft infrastructure( including a community facilities strategy , stipulated in the LEM SPD) will be delivered at the right place and at the right time and ensure that negative social impacts are mitigated and a clear phasing plan implemented”

**Response:**

“I can confirm that the need for an appropriate Masterplan is accepted as essential in order to unlock the development potential of the site, provide infrastructure necessary to serve the existing community as well as those who will live in the proposed development, to integrate the development into the wider settlement and to mitigate the negative impacts of the development of the site.

Specifically, Local Plan policy MN3 states that proposals will only be granted for the development of the site where they are consistent with a single detailed Masterplan for the whole site which is approved by the Council (Cabinet Member Planning and Building Control).

It does not, however, preclude the submission of the Masterplan at the same time as any applications, and this is the approach agreed by the Government appointed Local Plan Inspector.

For any Masterplan to be accepted, it needs to be assessed against the provisions of the Local Plan, specifically Policy MN3 ‘Land East of Maghull’ and the adopted Supplementary Planning Document for the site. One of the most significant elements of this assessment, will be the Masterplan’s ability to deliver a comprehensive development. It therefore follows, that the Masterplan should be agreed by all the relevant landowners as far as is practicable, and this is one of the factors that will be taken into account before the Masterplan is approved.

Any individual planning applications submitted will be assessed against all three tiers of documents and policies for compliance. That is, the Local Plan, the Supplementary Planning Document, and the Masterplan, as well as any other material considerations at the time of determination of any planning applications (such as an adopted Neighbourhood Plan, responses from consultees and responses from neighbours and other interested parties).

In response to your particular concerns regarding phasing, Part 6 of policy MN3 outlines the phasing and triggers for delivery of a range of physical and social infrastructure provisions, which are linked to the quantum and timing of development, whilst Section 4 of the SPD also requires a phasing plan as part of the Masterplan.

This Council is fully aware of the scale, complexity and significance of this potential development, and consequently has invested a substantial amount of time, effort and expertise in developing the suite of policies and guidance documents which dictate how the Council, on behalf of our Maghull community, expects the site to be developed. I hope this demonstrates that these requirements are very tightly reflected in our suite of policies, and I commit that these requirements will be robustly addressed in any future assessments of the planning applications.”

12. **Question submitted by Councillor McKinley to the Leader of the Council (Councillor Maher)**

“Can the Leader of the Council also confirm that the planning applications will not be approved by Sefton until a comprehensive Masterplan is formally agreed and consulted on?”

**Response:**

“Should the Council be minded to approve the current planning applications, the decision can only be made by Planning Committee.

The Chief Planning Officer will not recommend approval until formal agreement of the Masterplan has been reached. This will only be endorsed by Cabinet Member when it is considered that the Masterplan provides an acceptable framework for the determination of individual applications. Therefore I confirm that Sefton Council will not approve any planning applications on this site until it has first agreed the Masterplan. This is not just my commitment, it is a Local Plan and SPD policy requirement.”

13. **Question submitted by Councillor Sayers to the Leader of the Council (Councillor Maher)**

“Can the Leader of the Council please provide feedback on the current status of discussions on the Masterplan for land east of Maghull and the Council’s position with regard to its acceptability as a framework to guide the planning applications and can the Leader of the Council assure residents that the 18 infrastructure recommendations adopted as part of the Local Plan will be robustly implemented.”

**Response:**

“A Masterplan was submitted with the 2 current planning applications.

It is currently being assessed and will not be recommended for approval until the Chief Planning Officer is satisfied that it provides a suitable framework for the determination of planning applications for individual parts of the site, which would ultimately ensure a comprehensive development of the site.

The current draft Masterplan is not considered acceptable, detailed and technical feedback has been provided, and the Council awaits further action from the applicants and their advisers. Their response will be pivotal to the progress or otherwise of the current planning applications.

The 18 recommendations of the Overview and Scrutiny Infrastructure Working Group relate to the Local Plan as a whole, rather than individual development sites. These are appreciated, respected, and reported annually as part of the Council's 'Authority Monitoring Report', and will be fully applied to the consideration of proposals for this site, where appropriate.

Further statutory consultation will occur if material changes are made to the proposals. I would also urge Councillors and members of the community who are interested in this development to refer to a separate page on the Council's website which provides a simple easy reference on proposals for this site. Updates will be provided here at key stages of the process."

14. **Question submitted by Councillor Shaw to the Leader of the Council (Cllr Maher)**

"As the Leader of the Council is no doubt aware, the Times of 8 November 2017 carried a front page story with the headline: "Labour-run councils in £12m tax avoidance".

The 6<sup>th</sup> paragraph of that story was as follows:

An email seen by *The Times* from the Labour leader of Sefton council confirmed that the structure of its purchase of the Bootle shopping centre helped to avoid tax. It said: "It is true that one of the important considerations for purchasing the company rather than the asset is that the council would not have to pay stamp duty land tax. This is a widely accepted tax-efficient way of completing the purchase."

Was such an email, in fact, sent by you?"

**Response:**

"I responded via email to a series of questions received via email from Cllr Sue McGuire after she had attended the Cabinet meeting and been briefed by the experts advising on the purchase.

In her email Cllr McGuire confirms her acceptance that the approach is within HMRC guidelines and there may only be an issue should the rules and guidance ever change and be applied retrospectively.

My position remains, in line with Cllr McGuire's email, that this is not tax avoidance and is within HMRC guidelines."

15. **Question submitted by Councillor McGuire to the Leader of the Council (Cllr Maher)**

On 10<sup>th</sup> April 2017 I emailed the Leader expressing certain concerns about the purchase of the Strand Shopping Centre, Bootle. In his email response dated 13<sup>th</sup> April the Leader concluded by saying:

"I can confirm that the Cabinet wants O&S to review the approach to this purchase. I don't have a problem with Audit and Governance Committee also reviewing the matter. However as you know we have to ensure absolute confidentiality."

How does the Leader see the commitment he gave there being progressed?

**Response:**

"Cllr McGuire, along with the other opposition Leaders, was offered briefings prior to the Cabinet report and was also invited to attend the restricted item and was given the opportunity to ask questions during that discussion. As such, she will be aware that it has always been the intention to extinguish the company and transfer the asset (Bootle New Strand Shopping Centre) on to the Council's books thus bringing it back into public ownership.

The process of extinguishing the company and transferring the asset on to the Council's books is in the final stages and will be completed within the coming weeks.

It is my belief that any review of this matter should not commence until after that full process has been completed."

16. **Question submitted by Councillor Daniel Lewis to the Cabinet Member for Regulatory, Compliance and Corporate Services (Cllr Lappin)**

In the year 2016/17:

1. How many summons were issued for non-payment of Council Tax?
2. How many Liability Orders were granted in relation to non-payment of Council Tax?

**Response:**

1. "In the year 2016/17 a total of 25,890 summonses were issued for non-payment of Council Tax.
2. In the same period a total of 18,857 Liability Orders were granted by the Magistrates Court."



17. **Question submitted by Councillor Brodie-Browne to the Leader of the Council (Cllr Maher)**

In relation to the recent purchase of the Strand Shopping Centre, Bootle, would the Leader please supply, in table form, details of professional and similar charges incurred so far, to include the following:

- Name of Supplier
- A brief description of the services supplied
- Amount invoiced to date

**Response:**

“This information will, of course, be available during the scrutiny process in due course.”

18. **Question submitted by Councillor Hands to the Leader of the Council (Cllr Maher)**

“Was there any off-shore companies involved in the arranging of the purchase of the Bootle New Strand Shopping Centre?”

**Response:**

“The Council’s appointed UK legal advisor employed an overseas legal firm to help support the purchase.”

19. **Question submitted by Councillor Dawson to the Cabinet Member for Health and Wellbeing (Cllr Moncur)**

“Given that I am informed by Council officers that there is *“no capital budget for replacing playgrounds or equipment, only a small operational revenue budget for spares and other smaller works generated, for example, in response to vandalism”*; could the Cabinet Member inform me, with dates, of any decisions which have been made by any part of the Council to either provisionally or definitely expend Council monies of more than £1000 on play equipment replacement in respect of municipal play areas in any part of the Borough?”

**Response:**

“You were informed that ‘there is no capital budget for funding playgrounds or major refurbishments for which we rely on capital grants and external funding’.

I, as Cabinet Member and officers, have the necessary powers to vire monies which have been delegated to us by the constitution. I was advised in August by officers that the equipment at Ovington Park was dangerous and they recommended closure. I agreed the officers recommendation on safety grounds. A meeting was arranged to discuss this on 1<sup>st</sup> September.

As a result of community reaction to the closure and representations made to the Leader and I, I exercised my discretion to identify funding from within the existing parks budget to prevent the closure.”

20. **Question submitted by Councillor Dawson to the Cabinet Member for Health and Wellbeing (Cllr Moncur)**

“Given that the official policy in respect of municipal play areas, reported to me this month is that *“there is no capital budget for funding playgrounds or major refurbishments for which we rely on capital grants and external funding”*; could the Cabinet Member inform me of the nature and date of any decisions properly taken during the present financial year to spend or set aside any Sefton MBC capital funds for play equipment replacement within the Borough?”

**Response:**

“Funding was vired as set out above.”

21. **Question submitted by Councillor Dawson to the Cabinet Member for Health and Wellbeing (Cllr Moncur)**

“On what date(s) did the annual safety inspection of the Borough's play areas take place in 2016 and 2017 and what was the result of those inspections in respect of the play areas at (a) Smithy Green, Formby and (b) Ovington Drive, Kew?”

**Response:**

“In 2016 the annual independent safety inspection was undertaken on 3<sup>rd</sup> August at Smithy Green and 27<sup>th</sup> July at Ovington Drive.

In 2017 the annual independent safety inspection was undertaken on the 19<sup>th</sup> September at Ovington Drive. Smithy Green was not undertaken in 2017 as equipment had by then been removed.

In 2016, all elements of Ovington Park were inspected with all designated as low or very low risk apart from the swings. These were deemed to be a Moderate Risk which is defined as ‘designed use is unlikely to be problematic - an added factor (such as vandalism) is needed to cause an accident’.

At Smithy Park, all elements were inspected with all designated as low or very low risk again, apart from the swings which were deemed to be a Moderate Risk using the same definition.”

22. **Question submitted by Councillor Dawson to the Cabinet Member for Health and Wellbeing (Cllr Moncur)**

“Given that *“two trained staff undertake routine visits to each (play area)site throughout the year, typically, about 40 inspections per year”*, can you please provide me with the dates of all such inspections of the play areas at (a) Smithy Green, Formby and (b) Ovingden Drive, Kew between March and July 2017 inclusive, and any results reported from any such inspections?”

**Response:**

“The inspection dates for Smithy Green:

21<sup>st</sup> July  
19<sup>th</sup> July  
12<sup>th</sup> June  
10<sup>th</sup> May  
20<sup>th</sup> April  
31<sup>st</sup> March  
22<sup>nd</sup> March  
7<sup>th</sup> March

These visits found various minor works that required attention e.g. gate adjustments, general deterioration to wetpour surfacing, external frame corrosion, one incident was noted of the top bar of a swing being found on the ground from a collapse.

The inspection dates for Ovington Drive:

27<sup>th</sup> July  
17<sup>th</sup> July  
21<sup>st</sup> June  
18<sup>th</sup> May  
19<sup>th</sup> April  
29<sup>th</sup> March  
20<sup>th</sup> March  
2<sup>nd</sup> March

These visits noted general deterioration most notably rubber safety tiles were deteriorating, rusting, chain wear and a missing part was found.”

23. **Question submitted by Councillor Dawson to the Cabinet Member for Health and Wellbeing (Cllr Moncur)**

“What proposals in respect of suggested provision of and/or funding of new or repaired/refurbished play equipment have been proposed, officially, with reference to any proper decision made within the Council, on the Council's behalf within the past six months by any Cabinet Member, or other authorised senior officer of the Council, to any voluntary organisation, local residents group or elected ward members in respect of (a) Smithy Green Play Area, Formby and (b) Ovington Drive Play Area,

Kew, Southport?”

**Response:**

“Funding has been vired for Ovington Drive as set out in my earlier response and discussions have taken place with myself, Ward Councillors and residents around the future provision of play equipment for the park. Those discussions are ongoing.

There are ongoing discussions with the ward councillors regarding Smithy Green Play Area.”

24. **Question submitted by Councillor Pugh to the Cabinet Member for Regulatory, Compliance and Corporate Services (Cllr Lappin)**

“What written or recorded representations were sought from the Council’s Monitoring Officer prior to the Cabinet decision on the future of Area Committees on October 5th and will these be published?”

**Response:**

“None”

25. **Question submitted by Councillor Dawson to the Cabinet Member for Regeneration and Skills (Cllr Atkinson)**

“1. Could the Cabinet Member inform me of two dates in respect of Southport Indoor Market:

- (a) when was the decision made to permanently close the upper windows - by whom was this decision made and why?
- (b) when is it recorded within Sefton MBC did any authorised officer ever inform the traders/tenants working within the market that the decision had been made to keep these upper windows closed, winter and summer long - who is recorded to have informed traders of this decision?

2. Is it really true, as Southport Indoor Market tenants have informed me after recently losing perishable supplies due to them being 'cooked' over a weekend, and as they say market managers have informed them, that the management are incapable of turning the heating system of the market on and off at weekends?”

**Response:**

- 1. (a) “The decision was made by the Head of Tourism in 2015. I suggest he contact the officer direct and ask him why he made that decision.”
- (b) “The traders receive continuous dialogue from the market staff on operational issues. An open door policy is operated within the market. Any trader can call into the office at any time to speak to the market manager.”

2. "The market heating system is set for a six day operation for both the winter and summer season Monday to Saturday. To clarify, the market is closed on a Sunday therefore the heating is not in operation."

26. **Question submitted by Councillor Dawson to the Leader of the Council (Cllr Maher)**

"Could the Leader of the Council inform members of the Council who precisely originated the idea that Sefton MBC should consider purchasing the Bootle New Strand shopping centre (if the answer is an officer below the rank of Director within Sefton MBC then please indicate that without naming the officer concerned)? Was Sefton Council approached by an external person or organisation - or did Sefton MBC initiate the approach?"

**Response:**

"As the Council owns the freehold to the Strand we were approached by the Vendor's agent Savills in November 2016 to see if we would be interested and the property was put on the open market that month. The decision to purchase the Strand was made by Cabinet."

27. **Question submitted by Councillor Dawson to the Leader of the Council (Cllr Maher)**

"How much has been expended by Sefton MBC this year to 'advisors' in respect of the purchase of Bootle New Strand?"

**Response:**

"Please see response to question 17 from Councillor Brodie-Browne."

28. **Question submitted by Councillor Dawson to the Leader of the Council (Cllr Maher)**

"Have payments made to 'advisors' in respect of the New Strand purchase been made 'offshore' or 'onshore'?"

**Response:**

"Onshore - all payments were made to companies registered in the UK."

29. **Question submitted by Councillor Dawson to the Leader of the Council (Cllr Maher)**

"The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 set out the circumstances and limitations in which information concerning council decisions should properly be made available to elected local authority members to assist those elected members to perform their duty to monitor council affairs and hold the executive Cabinet to account. While circumstances are clearly defined in which confidentiality in respect of information is expected of councillors, the regulations make no differentiation, in respect of access to confidential information, between the proper expectations to be made of back-bench councillors and of Cabinet Members or political Party Leaders, in respect of confidentiality of council information, and rights to see that information except in certain very limited specific circumstances, e.g. where the Council is adopting a bidding position in negotiations.

1. "Could the Leader of the Council inform the members of the Council of any legal basis upon which Members of this Council have, to date, been denied access to receive or view information on confidential terms in relation to scrutiny of all aspects of the final Bootle New Strand shopping centre purchase and management deal including gross and net costs, risk assessments and projected rates of return?"

**Response:**

"A number of Cabinet meetings have taken place to consider the purchase of the Strand Shopping Centre. The legal reasons for papers being considered in Part 2 at those meetings is set out on the Council's internet. Those meetings of Cabinet included consideration of papers that contained exempt information as defined in Paragraphs 3 (financial affairs) and 5 (legal professional privilege) of Part 1 of Schedule 12A to the Local Government Act 1972. The Public Interest Test was applied to those papers and in those circumstances the conclusion was that it favoured the press and public being excluded from those meetings. This is an entirely lawful position for the Council.

However, in the circumstances of the purchase of the Strand Shopping Centre, Leaders from the 3 opposition parties were invited to attend a briefing and private meeting of Cabinet.

Further, at the meeting of Cabinet on 6 April 2017, Cabinet committed to release appropriate information for a future scrutiny review by the Overview and Scrutiny Committee (Regeneration and Skills) about the process to purchase Bootle New Strand at a suitable juncture. That scrutiny review will take place in due course."

2. "Could the Leader of the Council confirm that the law makes no distinction between the expectations of ability to retain confidence between Cabinet Members and other elected members of this Council?"

**Response:**

“All members who received information about the Strand Shopping Centre, did so in confidence. When they received this information member’s legal obligation to retain the information confidentially was reiterated. To share such information could have breached the Member Code of Conduct and/or the Sales Purchase Agreement subsequently concluded between the Council and the Vendor.”