

Full Council – 28 July 2022

Questions from the Public

1 David Forman to Councillor Steve LeMay (Portfolio Holder for HTS, Properties and Facilities – with special responsibility for the roads):

I am concerned by a statement in paragraph 67 of the public reports pack (minutes of April 2022 Safety Committee) published for consideration by the Cabinet meeting of 21 July. The statement of concern is:

"The Health and Safety Officer advised that the PAT testing was last completed three years ago and would be due again in Autumn 2022. They noted that after this, the need for PAT testing may be reviewed."

Consequently, does Harlow Council agree or disagree that:

(a) In-service inspection and testing of electrical equipment (PAT testing) is necessitated by two pieces of secondary legislation, namely, The Electricity at Work Regulations 1989 and the Provision and Use of Work Equipment Regulations 1998;

(b) That the frequency of inspection and testing is guided by risk assessments by the Duty Holder as stated in the Institution of Engineering and Technology's 5th Edition of the Code of Practice for In-Service Inspection and Testing of Electrical Equipment.

(c) That electrical equipment connected to the electrical installation other than by means of a plug requires inspection and testing as described in the IET's 5th Edition Code of Practice?

Reply from Councillor Steve LeMay (Portfolio Holder for HTS, Properties and Facilities – with special responsibility for the roads):

There is no mandatory direction to carry out PAT testing over a set period – it is best practice to test, and carry out visual periodic inspections as deemed required, in relation to the premises and the nature of the work activities that are carried out.

The risk within HDC premises is low, with the exception of the Playhouse, which does have a PAT test inspection carried out annually, (the equipment/tools in use pose a greater risk and are used more frequently). The other premises are majority IT based and very low risk.

A three yearly inspection is now scheduled with the next test due September 2022 onwards, with an external qualified contractor carrying out the programme.

Risk assessments are in place for activities/teams, as required by the department, and it is reminded that regular visual checks should be carried out, and any issues/maintenance required, should be immediately reported and the equipment taken out of use/replaced.

It is my understanding that HTS are responsible for the electrical installation service checks and maintenance connected to HDC premises. We are compliant and adhering to the necessary requirements and guidance.

Supplementary Question

Given the concern about the word 'need' rather than the word 'frequency' and the fact that the IT code of practise changed in September 2020, introducing a substantial number of changes from the previous edition. Would it not be prudent to take advantage of a British company namely Seawood, who provide on their website, a whole host of free training videos and webinars in relation to PAT testing including one video entitled 'the duty holders guide to PAT testing'.

Response from Councillor LeMay

If I could ask you to write me a note of that question, then I will write back to you.

2 Nicholas Taylor to Councillor Dan Swords (Deputy Leader and Portfolio Holder for Regeneration):

On 28 October last year I asked you why work was being done in Market Square, what was the expected cost and when could residents expect work to be completed. In response you said that the work was scheduled to finish in the winter.

Here we are some nine months later, and work has still not been completed. I am aware that a question was asked by Cllr Carter last week about the flower beds and an explanation given about the delays in getting them planted up. I am aware that the contractor ran out of materials last November.

Can you advise me if the contractor is in default of the contract undertaken, was a penalty clause placed in the contract for late completion and when will the whole scheme to be completed?

Reply from Councillor Dan Swords (Deputy Leader and Portfolio Holder for Regeneration):

Thank you for your question.

As I previously stated this was a scheme agreed and initiated by the previous administration, but I will deal with the detail of the question.

The contractor did not run out of materials last November. Due to the known delays with procuring supplies, the decision was taken to purchase approximately 60% of the materials in advance of final designs being completed. Although this was a risk it did mean that works could commence on time. However, lead-in times have since extended much further and so it has taken longer to obtain the remainder of the materials required.

The contract includes provisions for liquidated damages, penalty clauses and a performance bond as standard for this type of scheme. The Council, throughout delivery of the scheme has worked closely with the contractor and design consultants and been made aware of the supply and delivery issues at the earliest opportunity. It has not been appropriate to enact the penalty clause as the delays have been outside of the contractor's control. The Council is working with the design consultants around alternative materials to ensure that the scheme continues to meet quality objectives set out at the start, whilst ensuring delivery within budget. It is anticipated that the paving works will complete by the end of August 2022, and it is intended that the planters and planting will be installed for the start of this year's planting season in October.

Supplementary Question

It's clear that the shrub boxes placed along Broadwalk have not received any attention. Much of the planting has died or has been pulled out of the earth. What arrangements have been made to take care of those boxes and the new planting after its installed later this year.

Response from Councillor Dan Swords.

To deal with the latter part of the question first in terms of the planters in the East Gate area, a full maintenance schedule has already been put in place and a proposed to put a specific type of planting including putting in a built-in irrigation system. In terms of the plant boxes that were placed in Broadwalk, I am aware of the issues, and they're currently being looked into because they are part of the current maintenance schedule. So as soon as I have more detail, I will write to you with that detail.

3 Nicholas Taylor to Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

I noted the Council's withdrawal of its support for Epping Forest DC's Local Development Plan to allow the building of thousands of homes on Harlow's border. Despite this, the Planning Inspector in his latest submission to EFDC has not made any changes to this part of the Plan. It is now in the hands of Conservative Councillors at EFDC as to whether the Green Belt around Harlow is destroyed. Many Councils in the Southeast of England are already reviewing their Local Plans.

Will you advise me if any formal meetings have taken place between Councillors and or officers from both Councils where Harlow DC has voiced its withdrawal of support for the destruction of the Green Belt?

Reply from Councillor Michael Hardware (Portfolio Holder for Strategic Growth):

A one-to-one meeting was held on 30 June 2022 between the Council's Director of Strategic Growth and Regeneration and his counterpart at EFDC. At that meeting Harlow Council's concern at the implications for Harlow of some of the changes proposed by the Planning Inspector were expressed.

However, this was not a formal response from the Council. Epping Forest District Council have yet to commence the formal consultation on the Main Modifications to their Local Plan – it is expected that this will start in the next few weeks.

At that point, Harlow Council will make a formal response to this consultation and will re-state our objection to development in Epping Forest to the south and west of Harlow as well highlighting concerns at some of the changes proposed by the Inspector, which could be to the detriment of Harlow.

4 Robert Bruce to Councillor Alastair Gunn (Portfolio Holder for Governance):

On 27 January you were asked a question about the Council's off street parking programme. I am pleased to see that some progress has been made, completed schemes have been welcomed by residents. You responded to the question by saying that a robust assessment of sites identified was taking place.

Can you advise me of progress in respect of the site between Five Acres and Barn Mead and provide me with a list of sites where the assessment has

taken place and any further progress which has been made leading to the construction of new off-street parking?

Reply from Councillor Alastair Gunn (Portfolio Holder for Governance):

The original proposal for parking between Five Acres and Barn Mead was deferred by the Planning Committee and subsequently withdrawn pending a consultation on the need for a greater number of parking spaces in the immediate area. The Council undertook a survey with 3 options, and Option 3 for the largest amount of parking possible on the site was preferred by those responding and this is the area opposite the original green space adjacent to the access road to the between Five Acres and Barn Mead.

The Council is currently working with consultants, to scope and design the new parking site and drafting the necessary applications for modifying the crossing of the Public Footpath that runs along the access road to Goldsmiths and down to Barn Mead Pavilion.

In order to develop the detail required for the design proposal the Council is in the process of completing a parking and traffic survey of the highway for a length of Partridge Road from the entrance to Five Acres to the entrance to Abbotsweld.

Various other sites were considered as part of phase 2 however following assessments undertaken and pre planning advice has determined that the sites identified at Ladyshot, Foldcroft, Oxleys, and Hookfield (2) are not feasible.

Currently information obtained through Estate Inspections and engagement with residents is being considered of potential sites for a further phase of off-street parking are being collated.

5 Alan Leverett to Councillor Russell Perrin (Leader of the Council):

I understand that several services provided by the Council have or are to be shared with other Councils, I would expect a cost benefit analysis was carried out as a prelude to these services being shared with other authorities.

Can you advise me how much the Council expects to save in the next three years because of these changes, was a service level agreement signed between the authorities involved and where in the Council will such agreements be monitored to ensure that residents receive the same or indeed a better service than was previously the case?

Reply from Councillor Russell Perrin (Leader of the Council):

I thank Mr Leverett for his question.

Since this Administration regained control of the Council in May 2021, no new shared services arrangements have been entered into by the Council. Discussions have been held with other authorities with a view to entering arrangements and I can assure Mr Leverett and Councillors that portfolio holders would undertake due diligence before taking a formal decision. Future collaboration/partnership working will be based on operational and commercial advantage. The outcome of discussions would be brought to Cabinet at the appropriate time and formal agreements executed. We continue our work to ensure that the Council seeks cost reduction through challenging how we deliver services, ensuring value for money, as well as a return on investment in its service provision and that our partnerships are correct, strategic and maintain or improve our front-line services to residents.

Supplementary Question

As you are no doubt aware, some of the statutory services of the Council they administer are already being carried out externally. Can you confirm that these are contracted to carry out enforcement and these of these services and will this be pretty proactive rather than reactive.

Response from Councillor Perrin.

Thank you Mr Leverett if I understand your question correctly, any services that are currently engaged, they will have a review period and some are going through a review at the moment and they will go through the usual scrutiny when they're being reviewed but if you have any specifics later on, if you'd like to write to me, I'm more than happy to give you specific details on how they're following process and how that's benefitting the tax payer.

6 Alan Leverett to Councillor Nicky Purse (Portfolio Holder for Environment):

On 15 July 2021 you were asked a question about the maintenance of Council owned trees. The death of a mother and her daughter caused by a council owned tree in another part of the country which fell on the car they were travelling in, highlights the need for all councils to keep a close check on the condition of the trees they own. You said in reply to the question that a planned maintenance programme would start that year. There seems little if any evidence that works to trees has taken place since then.

Will you please advise me if such a programme is now in place, how many trees have been attended to since then and how much money will be put

aside each year to ensure that such a sad event as described above does not happen in Harlow.

Reply from Councillor Nicky Purse (Portfolio Holder for Environment):

Trees are inspected where there is a concern about risk or liability, and any works necessary to ensure safety or reduce risk of damage to property are carried out.

In addition, as Councillor Gunn stated last year, the Council has commissioned through HTS a town wide survey of trees on Council land which will ensure that all of the major features of our tree stock are recorded in a comprehensive data base. This will support proactive tree maintenance where this is necessary to better manage risk. Survey work has started in the Town Park and around equipped children's play areas and to date surveys of over 22,000 trees have been completed. The storms at the start of year have also re-directed the survey to where we see large trees come down in the storms the surrounding areas of trees will take a higher priority in the next round of surveys.

HTS already has a responsibility to deal with dangerous trees, and where urgent work has been found necessary it has been completed. It is recognised that surveying so many trees may identify extra works over and above HTS's existing responsibilities, and the Council has agreed with HTS that it will consider the financial implications once a representative proportion of trees have been surveyed. As set out last year, the expectation is that surveying work will take around three years: once the Council has a complete picture of its tree stock, it will be in a better position to identify long term costs of different approaches to maintenance.

Supplementary question

In terms of the three years, now two years as we are one year on since they said we would do the survey, so we have two years to go. Can you tell me how long it will take once the three years is up to do the work to maintain the trees?

Response from Councillor Purse.

I can answer that already they are through the first two waves of the actual survey and areas that have been identified already, money is going to be released to start working on those areas.

7 David Forman to Councillor Mike Garnett (Chair of Development Management Committee):

The Development Management Committee (DMC) refused the application of Brass Architecture on behalf of CRC London church for a change of use of part of the Leisurezone at its meeting on 8 June 2021 (Application # HW/FUL/21/00148).

May the public infer from that decision, subsequently overturned on appeal, that the eight councillors on the DMC wilfully failed to comprehend:

(a) paragraph 4.21 of the Harlow Local Development Plan (HLDP) on page 35 which reads - "To improve the living standards and lifestyles for the district's existing and future residents, new development will provide relevant community facilities. This includes leisure and sporting facilities, playing pitches, playgrounds, allotments, community halls and **places of worship** which will help reduce deprivation levels and promote healthy and active lifestyles";

(b) paragraph 16.12 of the HLDP on page 171 which reads: "This policy also considers a range of different community and cultural buildings and uses, including places of worship, healthcare and education facilities, libraries and social facilities such as community halls. These uses can provide the necessary infrastructure that underpins a healthy and prosperous community, and a range of activities that help to engage and connect the public."; and

(c) Harlow Council Officer's recommendation to approve the application and their dismissal of five written objections which comprised seven topics of objection, of which five related to church/religion, when they said in their supplementary representations report on page 10 - "Hire costs and religion are not a material consideration" and "In conclusion, the additional letters of representation received do not alter the Officer's recommendation to grant planning permission subject to conditions."

Reply from Councillor Mike Garnett (Chair of Development Management Committee):

No, I do not accept that the Development Management Committee has incorrectly assessed Planning Policy. The law has always made a clear distinction between whether something is a material consideration and the weight it should be given.

The former is a question of law. The latter is a question of planning judgement which is entirely a matter for the decision maker. Here, Members of the Development Management Committee considered the views of the

community and chose to give more weight to this in their decision making, as is their right.

Whilst it is unfortunate that the Planning Inspector disagreed with the views of elected members and the people they represent, it is important to note that the committees' actions have not resulted in a financial loss to the Council.

Supplementary Question

The first part is if one watches YourHarlow's video of the 8 June 2021 Development Management Committee meeting and listens to comments by councillors Leppard, Davies and Danvers, do you agree that a 'reasonable person' would deduce that the planning application (reference HW/FUL/21/00148) was rejected on the basis of the ideology of the Christian Revival Church, especially if one considers the council officer's summation of members' comments that includes reference to "ethos of the proposed user" (view from 19mins 38secs).

Secondly, given the applicant's successful appeal to a planning inspector, do you agree that the Christian Revival Church's Article 9 Freedom of Thought, Conscience and Religion rights under the European Convention on Human Rights have been violated and that this contention is justified by reference to paragraph 45 of a European Court of Human Rights document titled 'Guide on Article 9 of the European Convention on Human Rights' which states: "In a democratic society, in which several religions coexist within one and the same population, it may be necessary to place restrictions on this freedom in order to reconcile the interests of the various groups and ensure that everyone's beliefs are respected. However, in exercising its regulatory power in this sphere and in its relations with the various religions, denominations and beliefs, the State has a duty to remain neutral and impartial."

Response for Councillor Garnett

Not sure I can respond to that straight away its a lot of information to your question. I need to look at the video youtube and you're talking about human rights. You've obviously put a lot of work into that and I need to study what you are saying so if you could send me a copy of that and I'll get you an answer within say 10 days if that's alright.

8 Hugh Hoad to Councillor Nicky Purse (Portfolio Holder for Environment):

Why is HTS allowed to maintain the landscape in Greenhills area in the state it is?

Reply from Councillor Nicky Purse (Portfolio Holder for Environment):

HTS manage Council owned landscape to the same standards town wide, as set out in the specification that forms part of the contract. HTS has achieved the majority of key performance indicator targets set in the current service level agreement which is now under review. The landscapes client team at the Council will work with HTS to resolve any problems if they occur. The Council has recently commissioned an audit of the Council's environment work, and further details of that report will be issued in due course.

If Mr Hoad has any specific concerns, I invite him to write to me with them and I will ask that the teams address them if they are within the Council's remit.

9 Hugh Hoad to Councillor Russell Perrin (Leader of the Council):

I understand that an extension of the Public Space Protection Area of the Town Centre has been requested, why? As the Council is totally incapable of enforcing it and it is just another waste of council tax.

Reply from Councillor Russell Perrin (Leader of the Council):

Public Space Protection Orders (PSPO) provide councils with a power to implement restrictions to address a range of anti-social behaviour issues in public spaces in order to prevent future similar issues occurring. Restrictions can be placed on an area where activities have or are likely to have a detrimental effect on the quality of life of local people and where this is unreasonable and persistent poor behaviour.

The order can be enforced by Police Officers, authorised Police Community Support Officers, and authorised Council Officers, and often these parties will work in partnership to enforce to order or to give advice on this matter. There are many examples over the past three years where enforcement action has been taken.

For anti-social behaviour not covered by the PSPO, the Council works within its existing Anti-Social Behaviour Policy to address matters that fall outside of the remit of PSPOs. This might include using powers such as Acceptable Behaviour Contracts, Civil Injunctions, Criminal Behaviour Orders, Community Protection Warnings and Injunctions.

Supplementary Question

How many injuries do I have to suffer before the Council will enforce the no cycling, no e-bikes through the town centre? I give warning now that I will be

taking legal action for this non-enforcement of the protection order as you are doing nothing about the daily cycle track in the town centre.

Response from Councillor Perrin.

Thank you, Mr Hoad, to answer your questions you shouldn't have to suffer any injury at all. But if there is a particular infraction of any of the enforcement notices that are available, and you should come into contact and somebody cause you personal injury or harm or indeed you see anybody breaking those rules I would recommend that you do inform both the police and this council, and if you have done so I would be very happy if you were to provide me with the details of these incidents outside this meeting for myself to personally take that up with the Governance team and we can have a look and see what's gone wrong here in this instance if anything.

10 Sally Jones to Councillor Simon Carter (Portfolio Holder for Housing):

After last week's Cabinet meeting, on Thursday evening, you must be aware of the Major Works due to take place on Five Acres. I am a leaseholder, owner occupier, living alone and working a full time job, my salary is the only income I have.

I have been told that Florries Law is not applicable in this case at Five Acres, which is extremely disappointing and a matter that I am not 100% clear on.

I am distraught at the thought of having to take out a loan at this stage of my life (at 58, I expected to be planning my retirement), I still have my mortgage to pay and am still paying off a loan I took to buy a second hand Ford Fiesta car.

Please can I ask how Harlow Council feel it is ok to predict the issue of invoices in excess of £26,000 and why is there not a cap/limit to this value or the works?

Reply from Councillor Simon Carter (Portfolio Holder for Housing):

Thank you for your question.

Let me open by saying I do understand the concern that the cost of the proposed works must be causing. It is further frustrating that the actual cost will not be known for a few more weeks. It is not our intention to cause unnecessary stress or concern.

Florrie's Law does not apply in this case because Harlow Council is not receiving Government funds for the work that is being planned. The

Government is reviewing a number of reports on relations between landlords and long term leaseholders but is yet to publish any legislation or regulations.

The Council have put in place several repayment options to help Leaseholders spread the cost and which include:

1. 2.5% Prompt Payment Discount.
2. Ten months interest free payments.
3. Interest free loan over term of up to 5 years (secured against your property).
4. Council loan – secured against your property.
5. Discretionary loan (secured against your property).
6. Voluntary charge.
7. Flexible payment option.

These have been reviewed and compared against other councils and is shown to offer a wide range of options.

May I recommend that once the final figure is known that you contact your Housing Officer and discuss the best way forward. Only work that is considered necessary will be carried out to your property but I will reiterate that the council, as landlord, has a duty of care to ensure that its properties are safe and secure and environmentally sustainable. With the new insulation there should, in normal circumstances, be a reduction in your energy bills. The Council, through an open tendering process, aims to achieve value for money.

The Council will continue to talk to all leaseholders affected by these proposed works, their individual situations, the work required and will continue to offer support.

Supplementary Question

Tonight, there are ten leaseholders here from Five Acres that includes Cliff Phillips and Denise Gillies who both submitted questions to Brian Keane prior to five o'clock on Monday those question have disappeared so it doesn't install us with a lot of confidence so my question to Simon Carter is you say in your response the Council will continue to talk to all leaseholders affected by these proposed works. When can we have a meeting with the Council, please?

Response from Councillor Simon Carter

Thank you, I'll also add that if we can't find those questions please re-submit them and either I or the Chair will respond to you rather than you having to wait for September which is the next Council meeting.

But in that time what is becoming apparent is there are different issues affecting different properties and its far more effective for us to speak on an individual basis to the individual occupiers or leaseholders or invest in this when new information becomes available. We are now entering the assessment phase where the contractor is actually carrying out the surveys to actually see what work needs doing. This will be reinforced with videos as necessary; we will also be comparing experience of both reviews in terms of repairs and so forth and similar reviews elsewhere before we form the assessment. It is becoming clear there are different buildings with different requirements and while others will try and cover all that in one meeting with lots of people, it'll be far easier to carry out one to one discussion with the individual occupier but as we keep saying all the way through by all means come back to us either to me or to your housing officers if you have any further questions. So, we as the Council are now awaiting further information from the contractor on what works actually are down to each particular property and as I said earlier its not our intention to cause any distress or upset or to do any works that are not absolutely necessary, if that helps.

11 Colin Thorpe to Councillor Steve LeMay (Portfolio Holder for HTS, Properties and Facilities – with special responsibility for the roads):

In relation to Osler House, why in a question asked by Mr Allan Leverett of The Harlow Alliance party and answered by Councillor Swords July 2021 who stated the Council was fully behind the project of the creation of a Wellbeing Hub which would be an asset to the community no progress has been made?

Reply from Councillor Steve LeMay (Portfolio Holder for HTS, Properties and Facilities – with special responsibility for the roads):

There was a £220k budget allocated to the works. The HTS business case for the planned works shows that this cost has nearly doubled. As such the council has asked the Osler House group for a revised business case to reflect this. Once this revised business case has been reviewed, we will meet with the group.

Supplementary question

Why has the building been allowed to deteriorate to such a state that the cost has risen to such an extent when it was known that the roof was leaking, which has caused the repairs to go up in price and the tenant as a perspective tenant is expected to Pay something towards the costs of the maintenance of the building in as much that we will get a building that will need redecorating and we have to pay £22,000 towards the alterations of the building and should HTS be making a profit out of a charity which has been set up to support the council's own 10-year health and wellbeing plan.

Response from Councillor Perrin

I think the delay you find was Covid, the two-year gap was just about finishing now. But also, I don't think the up lift in these cost is about a leaking roof, its about lots of other major costs, financial constraint costs, cost of materials. But I will review it all and I will meet with your group, and I will go through it line by line.