

**QUESTIONS TO THE
LEADER OF THE COUNCIL, CABINET MEMBERS
AND/OR
CHAIRMEN OF COMMITTEES**

Thursday 8 December 2016

**1. QUESTION FROM COUNCILLOR PROWSE
Re: Penalty Charge Notice Appeals and Challenges**

During a recent review of a case where a driver challenged and appealed against the issue of a PCN by this Council I could not but notice that my study revealed the following: The case involved an allegation of failing to display a valid resident's permit. The penalty was £50 (discounted to £25 if paid within 14 days.) The resident challenged and appealed on the basis a permit did exist. The document I have in my possession is un-redacted and reveals that no less than SEVEN officers of this Council were involved in the dealing and preparation of the case papers for the Traffic Penalty Tribunal (TPT). This does not include the CEO who issued the ticket nor the un-named officer whose job title is JOB MANAGER. The TPT adjudicator cancelled the ticket. Can the Cabinet Member for Highways Management and Flood Prevention explain how this COUNCIL can justify the involvement of so many officers for one case! If DCC had won we would have only received £50. One phone call from the CEO at the scene would have confirmed a permit existed,

REPLY BY COUNCILLOR HUGHES

I would refer Councillor Prowse to the published national guidance on handling a challenge to a PCN, which Devon follows. The process is designed to ensure that a formal, agreed process is followed in all cases.

This introduces a stepped process, which relies on the evidence submitted by the appellant and includes for examination and responses to submissions by Officers at each stage.

It would not be appropriate for Members to get involved in individual cases; however, Councillor Prowse will see from the above process that it is conceivable that, depending on the flow of information from the appellant and the nature of the appellant's dialogue with the service, many officers could be involved in one way or another.

So, Councillor Prowse is wrong to suggest that one phone call is in accordance with the national guidance and I can assure him that the Parking Services aims to respond to all submissions and questions raised in relation to challenges to the issue of a PCN in a diligent and appropriate way.

**2. QUESTION FROM COUNCILLOR PROWSE
Re: Exeter Strategic Cycle Routes, E4 & E3**

Can the Cabinet Member confirm that the two routes, E4 & E3 which link Redhayes Bridge with the City Centre and the University are still to be progressed. The Cabinet meeting of June this year indicates support for these aims. Will the designs be ready for March 2017? Will the intended best practice of delivering fast, direct and separated routes be achieved? Will the three County Councillors whose boundaries meet at Stoke Hill roundabout and which route E4 passes be consulted on this project?

REPLY BY COUNCILLOR HUGHES

As per the Cabinet decision in June, the Council has continued with the development of the Exeter Cycle Network, with priority to the E3 and E4 cycle routes. With limited funding to design the routes and no funding to deliver the schemes, the E4 route between Redhayes bridge and Stoke Hill roundabout is being prioritised. The route will seek to maximise segregation of pedestrians and cyclists to create a higher quality, more direct route between the edge of Exeter and the city centre / University. There is limited design standards authorised by the DfT, therefore designers are using a number of best practice guidance documents including 'Making Space for Cycling', the 'Handbook for Cycle-Friendly Design' and TfL's 'London Cycle Design Standards'. The section between Stoke Hill roundabout and the University will need more detailed modelling, given the constraints of complex junctions and narrow road widths. The intention is to have a preferred route to consult upon in late Spring 2017. Local members will be consulted upon plans prior to any public consultation.

3. QUESTION FROM COUNCILLOR PROWSE

Re: Totnes One Way System – HIGH COURT & COURT of APPEAL proceedings.

I refer to my question to this Council on 12th May regarding the financial implications of a decision taken to defend a legitimate challenge made by residents (S.T.A,G) under the provisions of para. 35 of Schedule 9 of the Road Traffic Regulation Act 1984.

My question in MAY sought explanation of the staggering bill and loss to this Council which on the face of it needs further interrogation. Is the Leader in a position to clarify the extent of the bill which I now believe to be in the region of £200,000.

- a. Has any of the bill been paid?
- b. Please assure this Council it has exhausted any further desire to seek or pursue any other appeals.
- c. Is this Council in receipt of any compensation claims from businesses effected by this flawed Traffic Regulation Order?
- d. Did the Leader or any member of his CABINET see or was involved in the submission of "the skeleton arguments for either the HIGH COURT case on 6th MARCH 2015 or the COURT of APPEAL on 19th APRIL 2016?
- e. I have at great effort acquired the full transcripts of both court cases. It is evident to me from criticisms by both courts of this COUNCIL that either the Barrister appointed by this Council was ill informed or was unable to understand what a 'restriction' was.

Does the LEADER have copies of these transcripts?

- f. Finally who either in the LEGAL DEPT. or the HIGHWAYS DEPT. has been made accountable for the way they have dealt with a simple advertised TRO and failure to hold a public inquiry or deal with legitimate objections that were not frivolous?

REPLY BY COUNCILLOR HART

Taking the questions raised and requests for information by Councillor Prowse in order:

- a. *All legal costs have now been paid. The total cost was £141,290.*
- b. *The County Council will not be appealing the latest court decision.*
- c. *We have received notification from one member of the public that they intend to submit a claim.*
- d. *Officers briefed me on the issues, including:*

- *The positive views of the appeal hearing judge on the prospect of a successful appeal;*
- *Separate legal advice on compliance with due process;*
- *The risks of the appeal not succeeding.*

Based on the advice it was decided to proceed with the appeal.

e. *No.*

f. *This was not a simple matter as you will know from your review of the documentation.*

In particular you will be aware of the Judge's opinion when Devon sought leave to appeal the decision. The opinion was that the appeal had real prospects of success, particularly on the "restriction" point.

4. QUESTION FROM COUNCILLOR PROWSE

Re: Exeter Bus Station Re-Development / Pay and Display Machines

As part of the re-development of the bus station site in the City of Exeter there will be a need to have interim arrangements. These include suspending or revoking a number of on street pay and display machines which are in the ownership of this authority for up to two years. These matters were dealt with at the Exeter Highways & Traffic Orders committee on 14th November. There was no mention at all of the loss of revenue or a proposal to seek recompence from the applicant in the report. I know that two of the machines affected collect £40,000 a year. Can the Cabinet Member explain, was this an oversight or a gesture of goodwill?

REPLY BY COUNCILLOR HUGHES

This Council has been working closely with Exeter City Council on the re-development of the City Centre, to modernise and revitalise the city as a vibrant modern city to support the region.

Part of the plans includes the redevelopment of the Bus Station.

In the context of the large investment in this strategic site and its importance to the City, the loss of some on-street parking places seems to me to be a reasonable contribution by the County Council to the project.

In relation to the loss of income from the affected on street parking places, Councillor Prowse will be aware of the fact than on street pay and display parking is provided as part of a wider parking management strategy and not to generate income.

5. QUESTION FROM COUNCILLOR WESTLAKE

Re: Autumn Statement and Impact on Economy and Council Finances.

Will Councillor Hart give details of the effect the chancellors autumn statement will have on Devon economy and practically on the County Councils financial outlook.

REPLY BY COUNCILLOR HART

Councillor Hart will reply orally.

6. QUESTION FROM COUNCILLOR GREENSLADE

Re: North Devon Link Road and Autumn Statement

In the autumn statement the Chancellor did not appear to make any specific reference to improvements to the North Devon Link Road unlike his predecessor did in his budget statements.

Does the Cabinet Member feel confident that the previous commitments to provide funding for improving the North Devon Link Road made by Danny Alexander and George Osborne will be honoured by Philip Hammond?

REPLY BY COUNCILLOR LEADBETTER

In November this year the DfT published its 'Roads Investment – roads funding package'. The report provides further details of what the Government is committed to delivering and the North Devon Link is included in Annex 1 as one of 18 schemes currently in receipt of funding to develop business cases. The DfT has stated that once Outline Business Cases have been received, it will make decisions on which schemes will receive Programme Entry approval i.e. funding for construction. The Government has made it clear that not all of the schemes will proceed, with funding allocated to schemes which provide value for money, a strong delivery case and meet the objectives of cutting congestion, boosting economic growth and enabling housing development. The DfT is expecting to receive business cases from the start of 2017 through to the end of 2018. There is a significant amount of work involved to make this submission and the County Council is aiming for the December 2017 deadline, which is the 2nd tranche. As long as we can make a compelling case to Government, there is no reason why funding for improvements shouldn't be forthcoming.

7. QUESTION FROM COUNCILLOR GREENSLADE Re: Direct Rail Services between Barnstaple and London

Can the Cabinet Member provide any update on taking forward the previous County Council support for establishing direct rail services between Barnstaple and London?

REPLY BY COUNCILLOR LEADBETTER

The Council's position remains that it fully supports any commercially operated additional services on the Tarka Line including the potential to operate through services onto Waterloo. As well as the benefits of additional capacity and improved quality, a through service to the Waterloo line opens up local opportunities for cross Exeter travel, linking Barnstaple and Crediton to the growth in employment to the east of Exeter including the Science Park via Pinhoe station.

The operation of Waterloo line services is a matter for the future South West rail franchisee from June 2017. The DfT is expected to announce the winning bidder in February. The DfT did not include services beyond Exeter in the franchise specification but it was open to bidders to propose such extensions as part of their bids. The DfT would have to agree to such a change including any cost implications. The single track nature of most of the line imposes complex timetabling issues that will need to be addressed if any further services are included.

8. QUESTION FROM COUNCILLOR HOOK Re: National Institute for Health & Clean Air Excellence (NICE) Report – Vehicle Emissions

The National Institute for Health and Clean Air Excellence (NICE) has recently issued a report stating that vehicle emissions are responsible for at least 25,000 premature related deaths a year in the UK. Their number 1 recommendation to alleviate this problem is the introduction of 20 mph speed restrictions in urban areas. What progress has been made in this direction this year? What other measures have been introduced this year or are under active consideration to reduce air pollution related deaths?

REPLY BY COUNCILLOR HUGHES

As Councillor Hook will be aware from recent discussion at Place Scrutiny the DfT is currently undertaking a research project on the different uses and effects of 20mph restrictions. I can confirm I have recently received an interim update on the progress of this work from the Under Secretary of State, Andrew Jones. He has confirmed the research project has been extended to the end of 2017, to allow for an additional year of accident data to be included, which they believe will make the evidence base more robust. This means the report will be published in early 2018. Subject to the content of the report, consideration would then be made as to whether our approach to 20mph requires any amendment.

Most people acknowledge that the growth in car ownership and use as seen in recent decades is unsustainable and it is impossible to build our way out of congestion and air quality problem areas.

Over large areas of the network across Devon, very little growth in traffic has been experienced in recent years. This is due to variables such as fuel price increases, congestion and changing attitudes. It is however acknowledged that many drivers are resistant to alternative modes of travel, or have no other choice. Therefore the challenge that is faced is:

- 1. To make vehicles cleaner*
- 2. To impose car tax related to vehicle emissions to encourage use of cleaner vehicles*
- 3. To build environments that makes it easier to walk or cycle*
- 4. To encourage behavioural change by developing attractive and affordable options.*

Elements of this is included in the development of local plans and positive planning policy. However, the Government have greatest influence over the vehicle emissions elements.

This Council has a range of projects in the capital programme including supporting the development of the cycling and walking network across the county, significant investment is being made in the Devon Metro network to improve travel options by rail. There remains a major revenue subsidy of the public transport network and the Sustainable Transport Fund (DfT Grant) is aimed at encouraging behavioural change.

Air quality levels are monitored by District Council authorities. Since 2008, there has been a small but positive reduction in harmful emissions being recorded at the majority of monitoring sites across the County.

9. QUESTION FROM COUNCILLOR WRIGHT

Re: Green Waste Recycled

What estimation has been made of the amount of green waste recycled in Devon following the proposed drastic reduction of community recycling credits?

REPLY BY COUNCILLOR CROAD

The proposal is to reduce the amount of discretionary credit that the Council continues to make to the community compost groups in line with what the Council will be paying its new contractor from next April. It is envisaged that there will be minimal impact on the total amount of green waste recycled in Devon as all District Councils operate (either directly or indirectly) a green waste collection scheme which can be used by householders or green waste can be taken by residents to their Household Waste Recycling Centre. In 15/16 community composting overall contributed 0.15% to the overall recycling rate of 55.1% for Devon.

10. QUESTION FROM COUNCILLOR WRIGHT

Re: Green Waste to Landfill

What estimation has been made of the possibility of increased green waste going to landfill in Devon?

REPLY BY COUNCILLOR CROAD

All District Councils have a policy to exclude green waste from their residual waste collections. Hence there should be no impact on the levels of green waste going for disposal either through energy recovery or landfill.

11. QUESTION FROM COUNCILLOR WRIGHT

Re: Additional Costs for Landfill

What estimate has been made of the probable additional cost of land filling in Devon?

REPLY BY COUNCILLOR CROAD

It is anticipated that there will be no increase in the cost of landfilling in Devon as a result of this proposal.

**12. QUESTION FROM COUNCILLOR WRIGHT
Re: Impacts on Community Composting**

What estimation has been made of the effect on Devon community composting groups?

REPLY BY COUNCILLOR CROAD

The purpose of the consultation is to help determine the potential impact on the community composting groups. In addition an Impact Assessment has been carried out and can be found at <https://new.devon.gov.uk/haveyoursay/consultations/community-composting-credits/>

**13. QUESTION FROM COUNCILLOR WRIGHT
Re: Future Operation of Community Composting Groups**

Does the Environment Cabinet Member anticipate some Devon community composting groups ceasing to operate as a result of the proposed reductions?

REPLY BY COUNCILLOR CROAD

The proposal is currently out to consultation which closes on 23rd December 2016 & hence the potential outcome, should the proposal be adopted, will not be known until the consultation responses have been analysed early in the New Year.