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**EXCERPT FROM THE MINUTES OF THE  
INFRASTRUCTURE  
OVERVIEW AND SCRUTINY COMMITTEE  
HELD ON 29 JULY 2004**

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**IOS.95/04      FUTURE OPTIONS FOR FUSEHILL STREET COMMUNITY  
GARDENS**

Councillor Mrs Mallinson (Chairman), having declared a prejudicial interest in the matter, vacated the Chair and retired from the meeting room during consideration thereof.

Councillor Mrs Bradley, having declared a personal interest, took no part in the discussion or voting thereon.

Councillor Miss Martlew had also declared a personal interest.

Councillor Dodd (Vice-Chairman) in the Chair.

The Vice-Chairman commented that, bearing in mind the contentious nature of the matter, it was important to ensure that consideration thereof was undertaken in a fair and transparent manner. He outlined the procedure to be adopted by the Committee, advising that those parties who had been invited to attend the meeting would receive a copy of the Minutes in due course.

Referring to Standing Order 23.1 (Recording of Meetings), the Vice-Chairman indicated that he would not permit any such recording of today's proceedings.

There was submitted report of the Head of Property Services (PS.14/04) concerning the future options for Fusehill Street Community Gardens.

Before commencing with his presentation, Mr Atkinson sought confirmation that all interested parties had received a copy of his report and the relative appendices. The various parties confirmed that to be the case.

Mr Atkinson the presented his report, which included greater detail than that presented to the Council's Executive.

Objections and public petitions had been received by the Council which had taken various forms. Individuals had written in; there had been public petitions both in favour and against the scheme; also, there had been formal objections to both the planning application and as a consequence of a statutory process in relation to the disposal of land.

Mr Atkinson advised that Planning permission for the scheme had been approved and stressed that, as landowner, the Council was free to decide whether to sell the land for development or to retain it as open space.

Details of the background to the matter were provided. The scheme proposed was in two parts:

- (1) development of a Medical Practice. The developer intended to build the scheme and lease it to the Medical Practice, following appropriate National Health Service procurement guidelines.
- (2) the upgrading of the adjoining playground facilities, partly funded by the development, which would be retained by the City Council as a children's facility, with the remaining funding coming from the sale of land which had just been completed at Rydal Street.

Having taken Counsel's advice on the matter, the City Council was able to sell the land providing it followed the relevant procedures set out in the Local Government Act 1972 in respect to its disposal. The Council then required to consider such objections as part of its decision making process.

The Council had followed the procedures, and Members' attention was drawn to discussions of the Executive on 17 May and 19 July 2004, excerpts of which had been circulated prior to the meeting.

Details of the planning position, the public open space position, land disposal procedure and consultation undertaken were provided. Mr Atkinson made particular reference to the fact that the Council had just agreed its new priorities on 1 June 2004 which included:

- ❖ Manage our environment responsibly:  
Target improvements in residential areas and green spaces for community use.

The options open to the Council were:

**Option 1**

Retain the whole site for public open space and try and involve the community in running it again.

**Option 2**

Dispose of part of the site as a new Medical Practice and retain part of it for a children's play facility.

In conclusion, Mr Atkinson asked that the Committee scrutinise the report, provide feedback and advice to the Executive on the above options, and consider whether further consultation was required.

Mr Chris Berry, Miss Marian Smith, Ms Linda McNeil (objectors to the disposal of the land); and Dr Horne and Mrs Carrick (in favour of such disposal) had been invited to attend the meeting.

The Vice-Chairman then invited representatives of the various parties to address the Committee.

Mr Berry

I live in the area and have two young daughters. Houses only have courtyards and there is nowhere else for the children to play. I have been a Governor at the local Brook Street School for five years.

One child has already been killed on the road. When we were compiling the Petition everyone asked what about the children? What are they supposed to do?

I have an internal e-mail from the Council's Development Control Manager to the Head of Property Services concerning preliminary drawings for the proposed Surgery and the issue of whether a Planning Brief for the site had been prepared as required by the Code of Conduct.

The Vice-Chairman intervened stressing that, although he had no wish to restrict Mr Berry's representations to the Committee, a number of Members of the Committee also served on the Council's Development Control Committee and could not therefore scrutinise the actual Development Control decision itself.

Mr Berry then continued – The freehold title to the site is held by the Council under a conveyance dated 1891 so they had forethought for the people of the area. Now the number of cars has multiplied by 200 and they are saying that the site is available to be built on, it just is not credible.

The use of cars and parking in our area is at a dangerous level. There is nowhere to play and it is not just the kids who need open space. There are differing developments in the area making it very dangerous and against all policies (Government, Police, Medical, etc). Also, the Press have recently reported the dangers of obesity in children, contributed to by lack of exercise.

We are not against Doctors having a new Surgery, but there are other places it could go. The Petition comprises 15% of the people living in our area. If the Council does not achieve the best price for the land then that is a matter for the District Auditor to consider. Our children will be on street corners, there is nowhere else for them to go.

Dr Horne

I am afraid I am no more au fait with procedure than anyone else, so if I stray into the area of Development Control then please let me know.

Our current practice is 40% of the size needed which is causing great difficulties, of which the Health Authority is well aware, and has written to the Executive about it.

We have been looking at different site for the past 8 years and have considered in excess of 25, none of which were suitable for development for various reasons. This site is currently locked up, is too dangerous for people to be allowed into on the grounds that people have been injecting illegal drugs, etc. Only a portion of the site is in use now, and that will remain in use and be refurbished. In addition, CCTV will be provided to assist local Police with their crime and disorder initiatives.

There is a lot of vehicular traffic in the area, but we will provide parking.

We do not feel that this development will harm the local area or reduce the space available for children to play in. The surrounding area will be landscaped and retained for people to sit in, along with the sensory garden so that people can enjoy the area. I would emphasise that the area available now will be retained and enhanced.

This is a fair and essential development from our point of view and if it cannot proceed the Surgery will have to move a long way away and will not be suitable for the elderly. Not all local residents are against it.

Thank you.

#### A Ward Councillor

This is a really contentious issue in the St Aidans Ward. A large number of people are in favour of development, however, a huge number are against it.

The lack of consultation is the main problem as locals perceive it. They believe they have not been consulted and will be angry whatever decision is taken. Lots of people in the vicinity are saying I was not consulted. Consultation has been very minimal and should be undertaken more widely before a decision is taken.

No-one has consulted the children on what is provided for them. It was a magical place at one time and no-one under 18 years of age wants it lost.

Traffic and parking are really difficult now. The residents' parking scheme is to be extended but, if the new Surgery goes ahead, parking will be stretched to the limits. People will have difficulty in parking outside their own homes.

The need for a Surgery is not in doubt, but should it be on that site?

There are problems associated with anti-social behaviour and vandalism, but those problems will still exist even if the site is taken away. The issues require to be resolved and that is not a legitimate reason to say that the land is under used.

I spoke recently with a blind lady who said that the sensory garden would be a devastating loss to her.

Consultation is the key. No-one has a garden, there is not even a playing field at the local School.

There are several Doctors Surgeries in the area, some of which have spaces on their lists, so the elderly and infirm could relocate to those practices.

It is a split decision.

A Member indicated that, whilst she accepted that the Council had followed the relevant procedures and undertaken statutory consultation, it was her belief that such consultation was not sufficiently inclusive. The issue of consultation, particularly as regards community matters, should be investigated on an authority wide basis with a view to improving that currently undertaken and ensuring local people were made aware of issues affecting their localities, perhaps via individual notifications.

The Member then moved that the Executive be requested to:

1. undertake further consultation – to include a public meeting in order that all interested parties may have their say and ask questions of the Executive and Officers, prior to determination of the matter.
2. visit the site – the site was currently neglected, vandalised and under used. Such a visit would afford Members of the Executive the opportunity to be better informed as regards the nature of the site and to consider opportunities available to improve the same.

The motion was then duly seconded.

Other Members confirmed their agreement with that course of action, stressing that it was important that the above was undertaken by the Executive since they would ultimately have to come to a decision whether or not to dispose of the land.

In response to Members' questions, Dr Horne advised that he could not at that moment provide exact figures on the number of patients who lived in the locality as opposed to the City as a whole. His Practice had, however, been in the area for 100 years, he had looked at all available sites for the new Surgery (including an unsuccessful approach to St Martins College) and this was now the only option. Should the project fail, then the Practice would have to move further away to the disadvantage of patients.

It could be argued that patients could move to alternative practices. Dr Horne believed that his patients came to his practice as a matter of choice, as was their inherent right.

A Member expressed the view that, whilst the Council had a duty to local residents, it also had a duty to assist where possible with the provision of modern health services which would benefit the patients of that Practice. It was clearly a difficult dilemma for the Council.

The Overview and Scrutiny Support Officer made reference to the Best Value Review of Democratic Engagement, commenting that the proposed further consultation should include reference to the new Corporate Consultation Policy which emerged from that Review.

RESOLVED – (1) That it is the recommendation of this Committee that the Executive undertake further public consultation, to include a site visit by the Executive and a public meeting as outlined above.

(2) That the Executive be requested to investigate the manner by which public consultation **was** undertaken across the Authority, particularly regarding community issues, with a view to making such consultation as wide ranging as possible.



## Legal and Democratic Services

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TO THE CHAIRMAN AND ALL MEMBERS  
OF THE EXECUTIVE

Please ask for:

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Mr Halstead

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SH/

16 August 2004

Dear Sir/Madam

### EXECUTIVE – 17 AUGUST 2004

I refer to Agenda Item A.13(c) (Land at Fusehill Street) to be considered by the Executive on 17 August 2004 and attach, for consideration, three letters from residents at 59 Vasey Street, Carlisle received by the Leader on Monday 16 August 2004 and a letter from Miss Smith, 53 Rydal Street, Carlisle.

Yours sincerely

Head of Legal and Democratic Services

A.13(c) refers

Ms. C. E. Docherty

59. VASEY CRESCENT

CARLISLE

CUMBRIA

CA1 2BG.

10/8/04

Dear Councillor Mitchelson,

I am a patient of the London Road G.P. practice, and feel strongly about the Controversy regarding Planning Permission for Our Surgery to be re-allocated to the Fusehill Street Community Garden site. I am a resident of the Vicinity therefore have knowledge of the debate and the objection Views as well as Supporting Views.

I am a Disabled Single Mother of 3 school age children. I have lived locally all my life, and due to being (as many of the patients are) Without Transport, it is essential that the Central Practice serving our Community is based within easy reach for us, and on a Suitable site for the growing practice.

The Fusehill Street Site is ideal, and residents would not have Main Roads to deal with. Botcherby & Harraby patients have a Convenient Bus Stop for the site, and due to the plans you will see for yourself there will be no extra Traffic Causing problems for the Community. There is little Option of other Suitable Sites, and to be perfectly honest, all those who Oppose the plan, seem to do so out of sheer Sentimentality. The Gardens have been neglected by these residents, they had years to 'Use' the Gardens, but due to lack of interest and apathy the Gardens became no more than a 'hangout' for Teenagers & Drug users.

Vandalism soon took hold, and yet for years this has Continued to be the Case, and



nobody was prepared to do or say anything about it — Until Now!

We are in an area of many changes. The Housing Market means residents are moving on & out, and the students of St. Martins College are moving in. It's a forward moving time, and we desperately need Health Care facilities in the Area more than a Vacant Vandalised Garden, which never attracted the Community in the way for which it was supposed to. When in the early days of its opening frogs were put in the pond/stream, they were killed off and didn't make it to the Second Year.

Used Condoms, broken bottles, the cold Syringe became the 'Norm' findings. And people like myself with young children found it 'Unsafe.' The Elderly residents were put off by the Groups of Teenagers! What was left was a Complete Waste of Well Intended Garden Area.

The Surgery being built upon the Site, would put an end to the Criminal damage, and youths loitering. There will be much more positive Outcome, and Overall Welfare benefits.

Reality is the biggest Issue, some in opposition are blinkered by old views of diminishing Greenery.

— unused Greenery!

Please let's get the plans finalised & work begin for a healthy worthwhile Commitment to all belonging to London Rd Surgery Practice.

Thank you,

Ys faithfully.

B. L. Dockett.

59 VASEY CRESCENT

CARLISLE

CUMBRIA

CA1 2BG

13/8/04.

To The Council Executive Committee,

Sadly further Consultation is needed before plans get the go-ahead for London Rd Surgery's move to the Disused FUSEHILL STREET COMMUNITY GARDEN site.

On the Objectors Views, I would ask 'why? if so great a wildlife oasis and Environmental area, these people allowed the Garden to become derelict and neglected over such a long period of time.

Why were the Gardens continually Vandalised?

Why did local Dog owners allow their pets to 'fowl' the Garden? (and that's a 'Danger' issue).

Those who Argue that the Garden was a Gift to the Community, have more or less 'proved' it to be an unwanted Gift.

The youths & Drug users have found it an ideal place for liaisons due to Overgrown Bushes and Shelter from prying eyes.

The Wildlife declined yearly from the first Seven months of the official Opening of the Garden.

There is plenty of evidence to prove neglect.

The Argument about Traffic is weak and a poor excuse. The plans from the Doctors ensures

Some of the Garden features will remain.

Gardens remain on near by Rydal Street, Aglionby St, Portland Square, the St. Martins College Campus has fabulous grounds with a host of Trees & Shrubs relevant to Wildlife.

If you can look at the plans, both petitions, and

Weigh up realistically the end result. Surely, you can reach a Conclusion that will enable the Garden to become a much needed Medical Health Centre. We must put Patient Care and Health Issues to the fore, it will be a permanent Valuable Asset to the Community, far more residents would Benefit a Medical Centre than a Garden! The Minority in opposition (not all local) fail/refuse to see that this Area is in much need of improvement and growth. The legal angle needs addressed of course, but like I stated earlier - What was Given to the Community & paid for by the Council, was neglected & destroyed by that very same Community.

I hope you look forwards on this Issue for it's the future residents that will benefit, as well as those already in favour.

Yours faithfully C. E. Docherty

59 Vasey Crescent  
Carlisle  
Cumbria  
CA1 2BQ

13th August 2004

Dear Councillor Mitchelson,

For several weeks now, I have read about local residents' oppositions towards the proposed new doctors Surgery at Fusehill Street gardens. I cannot believe that the residents - most of whom are patients at the surgery on London Road - want a run-down, littered and quite frankly, 'unsuitable' park for young children.

The government are doing their best to improve NHS standards - a new ~~see~~ Surgery would enable patients better care and better equipment.

Are you going to deny patients proper care that could make a real difference?

Sentiment counts for nothing.

Wake up to the 21st Century - out with the old and in with the new.

Sooner - rather than later.

Miss R. Lomas  
aged 16.

13 Aug 2004

Ref 130804/Exec/ESEC-1-

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13 AUG 2004	
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13 AUG 2004

CUSTOMER AND INFORMATION SERVICES

53 Rydal St  
Cwmllyn CA1 1SQ

Mr  
Dear Steven Halstead, Clerk to Executive  
Cwm Cwmllyn CA3 8QG

Dear Mr Halstead

Please would you ensure that the viz by the Executive  
to Fuschell Street Community Gardens & Area surrounding  
is to the site and surrounding area as agreed at the  
meeting and not just to the site as the minutes  
state.

Unfortunately, I am unable to contact Dr Dave Taylor  
directly as he is on holiday until 17th August.

I have also informed Cllr Lucy Patrick, Cllr Dodd &  
Ian Dixon.

Thank you.

Yours sincerely

Marian E Smith

MARIAN E SMITH, MISS