

**MINUTES OF A MEETING OF THE
OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE
HELD ON 16 OCTOBER 2017 FROM 7.00 PM TO 9.45 PM**

Committee Members Present

Councillors: Keith Baker (Chairman), Laura Blumenthal (Vice-Chairman), Lindsay Ferris, Ken Miall, Ian Pittock, Malcolm Richards, Chris Smith, Philip Houldsworth and Abdul Loyes

Other Councillors Present

Councillors: Prue Bray, Andy Croy, Richard Dolinski, Charlotte Haitham Taylor, Clive Jones, David Lee, Julian McGhee-Sumner, Stuart Munro, Anthony Pollock, Imogen Shepherd-DuBey and Oliver Whittle

Officers Present

Neil Carr, Principal Democratic Services Officer
Graham Ebers, Director of Corporate Services
Bill Flood, Managing Director, Wokingham Housing Ltd
Bernie Pich, Assistant Director, Strategic Property and Commercial Assets
Louise Strongitharm, Category Manager, Economic Prosperity and Place
Mary Severin, Borough Solicitor
Andrew Moulton, Assistant Director, Governance and Monitoring Officer

36. APOLOGIES

Apologies for absence were submitted from Parry Batth, Kate Haines, Pauline Helliars-Symons, Bill Soane and Shahid Younis.

Philip Houldsworth and Abdul Loyes attended the meeting as substitutes.

37. DECLARATIONS OF INTEREST

There were no declarations of interest.

38. PUBLIC QUESTION TIME

There were no public questions.

39. MEMBER QUESTION TIME

There were no Member questions.

40. CALL-IN OF EXECUTIVE DECISION - PEACH PLACE RESIDENTIAL

The Committee considered the Call-In of the decision taken by the Executive, at its meeting on 27 September 2017, relating to the proposed transfer of 22 apartments at Peach Place, Wokingham to a Council-owned company. The decision had been called in by Councillors Prue Bray, Lindsay Ferris, Clive Jones, Imogen Shepherd-Dubey and Rachelle Shepherd-Dubey.

The Executive decision had been called in on the following grounds:

- The proposed action was not proportionate to the desired outcome;
- A presumption in favour of openness had not been observed;
- Clarity of aims and objectives had not been achieved;
- Details of the options taken into account were not recorded.

The following witnesses were invited to submit evidence and/or answer questions in order to assist the Committee in its deliberations:

- Councillor Prue Bray to set out the reasons for the Call-In;
- Councillor Julian-McGhee-Sumner, Bernie Pich and Louise Strongitharm to provide facts, figures and justification for the Executive decision;
- Councillors Stuart Munro, Anthony Pollock and Oliver Whittle, Graham Ebers and Bill Flood to answer Committee Member questions.

Councillor Keith Baker (Chairman) welcomed the witnesses and explained the format of the meeting. Witnesses would be invited to make a short address to the Committee followed by a question and answer session. Due to the exempt information contained in the Agenda the Chairman explained that this process would be followed in both Part 1 and Part 2 sessions. Members were reminded of the importance of ensuring that any questions relating to exempt information were saved for the Part 2 session. Following the Part 1 and Part 2 witness sessions the Committee would consider all the written and oral evidence and decide to either confirm the decision or make appropriate recommendations to the Executive.

Councillor Prue Bray addressed the Committee on the reasons behind the Call-In and made the following statement:

“We have called this decision in on the grounds listed on Page 7 of the agenda – proportionality, openness, clarity of aims and lack of information about other options. We support the provision of affordable housing at Peach Place, but we do not believe the financial details of the scheme demonstrate acceptable or proportionate use of S106 commuted sums. Because all those financial details have been placed in Part 2, frustratingly I cannot talk about them while the public are present, even though I believe that some of the information has been wrongly withheld. Fortunately, there is quite a lot about this that I can say without breaching any rules of confidentiality.

Before I move on to the explanation for the Call-In, I do want to say how disappointed I am in Julian McGhee-Sumner. In a piece he wrote for last week’s Wokingham Paper he claimed we were calling in this item for “minor technical points”. He knows that due to confidentiality we cannot tell anyone what we think is so wrong. I thought he was better than that. I want to make it clear that we are not seeking to stop these 22 flats from becoming affordable housing, as he suggests. We are simply trying to make sure that the deal that is struck provides genuine affordable housing at a value for money price.

Now to the problems that we have with this decision. I am going to deal first mainly with proportionality and clarity of aims followed by openness.

Everyone knows that there is an acute shortage of affordable property to rent or buy locally. So we were pleased when we were told that these 22 flats were going to become affordable housing. We were, though, slightly surprised, as when the planning application was approved it was made very clear that for reasons of financial viability it was not possible to provide any affordable housing on site or any money in the form of a contribution towards affordable housing off-site. To show this is the case, I have included several paragraphs from the Planning Committee agenda and quote from the Planning Committee minutes as an appendix.

As well as citing lack of money, the Planning Committee report also says: “The Affordable Housing Group (a Member/Officer reference group) took the view that on-site provision would not be feasible in this case due to high rents (including service charges), lack of car parking and the town centre being an unsuitable location for vulnerable residents.” It does not say anywhere in the decision we have called in why there is no longer any need for high rents, or what service charges might apply. Nor is there any explanation of why the location is now suitable for affordable housing, having previously been considered unsuitable.

It is not unknown for developers to argue against having to provide affordable housing. The reason is simple: they make much more money from market housing. If a developer is going to build 100 houses in Wokingham, they would normally have to make something like 35 of them affordable. If they build them on-site, normally a housing association will make an offer for them as a block, with the offer pitched at well under half the value of the houses on the open market, but around enough to cover the construction costs. If the developer opts to pay money for off-site affordable housing instead, they get to build all their houses for sale at full market price. They negotiate how much they have to contribute for the off-site affordable housing and, typically, it will be about what the housing association would have paid them i.e. roughly the cost of construction. On a development of 100 three bed houses, even after the commuted sum has been paid, on my calculations a developer would make approximately £5 million more by having off-site affordable housing. So you can see why they do it.

Wokingham has built up a pot of commuted sums from scenarios such as the one I have just described. To deliver the same number of affordable homes off-site as should have been provided on-site, that pot of money has to be husbanded very carefully. The risk is that the money won't stretch and we will end up with fewer affordable homes than we would have got by having them built on-site. Therefore, it is extremely important that the Council gets value for money when spending commuted sums.

Looking at the Peach Place flats, the Council as developer made an extreme version of the argument I have just outlined. The money was so tight that they couldn't afford any on-site or off-site affordable housing. The question people should be asking themselves is: if it was not financially viable then, what is it that has changed to make it viable now?

The public would be better able to look into that question if they knew how much in commuted sums was being used for this proposal. That figure has been withheld. We believe it should be made public. And here's why.

This is far from the first time that commuted sums have been used to help fund affordable housing projects for the Council's own housing company. Amongst your papers are the Part 1 and Part 2 reports for two agenda items from the Executive meeting in September 2016. These two agenda items covered the handing over of commuted sums to help fund multiple WHL affordable housing schemes.

Both Part 1 reports include as recommendation 4 the exact amount in commuted sums which was being handed over to fund the schemes.

If the value of the commuted sum could appear in Part 1 in September 2016, why can't it appear in Part 1 in September 2017? How come the commuted sums figure is treated as exempt information this time, when the circumstances are exactly the same as 2016, when the figure was in the public domain? Keeping the figure secret cannot be justified.

There are three other differences between those Part 1 reports from 2016 and the Part 1 report for the decision we are calling in. Firstly, both reports from 2016 show that a mixture of types of tenure would be used. In the case of Peach Place, the only thing on offer is intermediate rent, i.e. up to 80% of market rent. Neither social rents nor shared ownership are mentioned. No information is given as to why these other options have been rejected.

Secondly, both 2016 Part 1 reports include the sentence 'The Council will have full nomination rights to all of the completed properties'. For those of you who don't understand the significance of that, it means the Council has the right to put forward people to live in the properties, normally from the housing waiting list, which currently stands at well over 1,000 people. Instead, for Peach Place there is a vague statement about key workers. There is an indication of what a key worker might be but no definition of who exactly would be eligible for these properties and no statement that says they will be drawn from the housing waiting list. That means that these flats could be funded by affordable housing money but actually not be offered to people in the Borough who have been waiting for affordable housing. The details need to be at least clarified.

Thirdly, one of the reasons for the Call-In was the failure to provide information about alternative options considered. One final comparison with the Part 1 reports from September 2016 shows that both of them clearly listed 'other options that could be considered'. This is lacking from the Peach Place report.

The final point I want to make is about how the fact that information has been withheld from the public has had the effect of misleading them as to what is actually being proposed here. There is one particular fact that has not been disclosed that I am referring to and I cannot even say what it is. I will be talking about it in my statement for Part 2 and arguing that it should be disclosed.

So, to sum up, we are in favour of these 22 flats being affordable housing, and we have no problem with using commuted sums to help that happen. But we do think that the use of money should be proportionate, it should be clear what you are getting for the money, and that the reasons for choosing this course of action over others should be laid out. And, most of all, all material facts should be disclosed to the public. It is acceptable to keep truly sensitive commercial information confidential. It is not acceptable to hide details simply because it is easier for the Council if they keep them secret."

Bernie Pich addressed the Committee on the factors underpinning the Executive decision and made the following statement:

"The provision of affordable housing is a key issue for many within the organisation. Within the development of the Peach Place scheme, and understanding the need to balance many issues including that of finance and the cost burden to the tax-payers of Wokingham, the scheme was unable to include affordable housing provision on the grounds of viability.

The matter was considered by the Local Planning Authority (LPA) in the determination of the scheme which required us to provide a detailed Appraisal, which was reviewed on behalf of the LPA by an external expert. This demonstrated that there were insufficient funds delivered through the scheme to fulfil all of the Council's policy requirements (in this case affordable housing).

However, with the wish to provide an element of affordable housing in a cost-effective manner, we researched what others were doing including the increasing market in rented schemes as opposed to outright sales.

It was through this process that we started to investigate the proposal that was agreed at the recent Executive meeting. Originally we had been looking at the proposal using a registered social landlord, but quickly understood the benefit of utilising Wokingham Housing Ltd, as they were developing both affordable housing and rental approaches. This is a creative, innovative and cost-effective method of providing affordable housing.

We have provided responses to each aspect of the Call-in, which are included within the papers. I believe there to be two key issues identified which can be discussed in Part 1 of this meeting:

- The second reason given for the Call-in related to whether information in the Confidential Part 2 report should have been put into the public domain. Our response is that the information contained within the Part 2 Report relates to commercially sensitive information relating to a transaction between the Council and one of its companies. As the transaction is yet to be concluded, publication of these details could disadvantage the Council in the future. The financial information included within Part 2 of the report did not relate to proposed development for which the LPA may grant itself planning permission. The consent has already been granted and, therefore, this clause does not apply.
- The fourth reason for the Call-In relates to the supposed lack of alternative options presented in the report. The alternative option was to retain the original intent to sell the units into the open market as set out in the report. An alternative option also considered was the inclusion of four 3-bedroom townhouses as key worker housing. However, after further consideration, it was felt that open market sale may be a better option for these larger properties.”

Julian McGhee-Sumner (Executive Member) addressed the Committee and made the following statement:

“I have been a Member of this authority since 2007. One of the issues that keeps recurring is how few affordable homes we build. For the last two years we have achieved more and this year will be a record in terms of the number of affordable homes delivered.

When we set about producing this report we considered an independent review which stated that it wasn't viable to deliver affordable homes on this site. We looked at this again in order to evaluate where we could deliver the homes that our residents need.

The information in Part 2 is commercially sensitive. Wokingham Housing Ltd (WHL) is a commercial business like any other and it has to be managed in that way. So, to make that information available in the public domain would disadvantage WHL.

We have done our best to provide affordable housing for our residents and I believe that we are continuing to do so. Consequently, I was surprised that this item was called in.”

Following the opening statements, the Committee moved into a Part 1 question and answer session. During the session the following points and questions were raised:

- The original planning application recognised that the Peach Place scheme was not financially viable for affordable housing. So, what has happened since? It was confirmed that the original proposal was to sell the units into the open market. The recent proposal, sale to WHL at 80% of market value, meant that Wokingham Town Centre Regeneration (WTCR) would receive 80% of the market value plus an element of rental income.
- As the Peach Place units were being sold en bloc, was there an additional discount involved? It was confirmed that the discounted rate was 80%. There was no additional discount.
- The sale of the units would result in a substantial cash injection for WTCR. Would this be used to fund other elements of the town centre regeneration such as Elms Field? It was confirmed that there was no link between Peach Place Residential and Elms Field. In effect the sale of the units at 80% market value would result in a loss for WTCR.
- In relation to the Executive reports from September 2016 (Norton Road, Finch Road, London Road, Elizabeth Road, Emmbrook Road, etc). These reports contained details of commuted sums in Part 1. Why was Peach Place treated differently? It was confirmed that the September 2016 reports included aggregated sums which meant that the finances for individual schemes could not be identified. Consequently, the information was not considered to be exempt.
- What was the definition of “intermediate affordable housing”? It was confirmed that the Government definition of intermediate housing covered a number of different tenure types. In relation to Peach Place it was intermediate rented housing let at up to 80% of market rents. The Peach Place rents would also be capped at the local housing allowance level.
- Why was the press release on Peach Place incomplete, in that it did not refer to the break clauses included in the Part 2 papers? It was confirmed that the break clauses were included to protect the Council’s interests. The properties could continue as affordable housing units past the break clause timeframe.
- In developing the Peach Place proposals, was the Council using the same processes as other Councils? It was confirmed that the Council was using a similar approach to earlier proposals and was acting within relevant legal and financial frameworks.
- Was the Council acting consistently in treating the Peach Place contractual data as exempt information? It was confirmed that it was not in the Council’s interests to publish exempt information and the law recognised that position. If the Council had published exempt information in Part 1 in the past it may have been done in error.
- What was the definition of “key workers” and how would the Council allocate the Peach Place units? It was confirmed that the Council would have full nomination rights and would use the definition of key workers set out on pages 12/13 of the agenda, viz:

“It is proposed that the 22 apartments at Peach Place be provided as affordable key worker accommodation. The scheme will be open to a range of low income key workers, who are vital to the delivery of public services and/or support the local economy. A key worker is typically a public sector employee who is deemed to

provide an essential service to the local area, such as, teachers, health authority staff, police officers, fire fighters and local authority social service employees. Key workers can also include any other public or private sector employees of other bodies operating in the public sector subject to the relevant body being able to demonstrate that the industry's national wage structure is such that its employees are unable to afford to rent or to buy homes on the open market within the Borough – for example, care workers or nursery staff.

Should there be no key workers in any of the above categories at the time of nomination, eligibility could be expanded to anyone else in the Borough on a low income whose employment supports the local economy (for example, retail staff)”.

41. EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED That under Section 100A (4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the Act as appropriate.

42. CALL-IN OF EXECUTIVE DECISION - PEACH PLACE RESIDENTIAL - PART 2

The Committee considered the exempt information relating to the Call-In of the Executive decision relating to Peach Place Residential.

The Committee received further submissions from Councillor Prue Bray, Bernie Pich and Graham Ebers and put further questions to the panel of witnesses, following which the Committee considered all the information it had received.

RESOLVED That:

- 1) The witnesses be thanked for attending the meeting and answering the Committee's questions;
- 2) The Committee concurs with the Executive's decision on Peach Place Residential;
- 3) The Executive be recommended to ensure that any future affordable housing scheme which departs from the Council's normal procedures be supported by details of how the scheme is different and the benefits provided for the Council. This should include the reasons why any detail has been included in a Part 2 section (e.g. that financial data is commercially sensitive).

43. BUDGET ENGAGEMENT PROPOSALS

The Committee considered a report, set out at Agenda pages 55 to 66, which gave details of the proposed Budget engagement process for 2018/19 and 2019/2020.

The aim of the proposals was to increase residents' awareness of the Council's financial position and to inform residents how they could influence future Budget decisions.

The report reminded Members of the Budget engagement process used in previous years which included public meetings with residents across the Borough. In order to build upon the events held in previous years it was proposed to develop a two year process that would deliver a wider Budget engagement process by involving more residents and targeting a wider demographic range. Year 1 would involve consulting on broad priorities

and using the feedback to guide more detailed Budget decisions. Year 2 would involve consulting at a more detailed level where there was a question over actual lines of expenditure.

Appended to the report was a Communications Plan setting out the objectives, target audience and communication methods.

In the subsequent discussion the following points were made:

- Could Members submit comments on the proposals? It was confirmed that additional Member comments could be submitted for the next seven days.
- Would there be a Calendar of engagement events for Members? It was confirmed that this suggestion would be considered.
- Was this a replacement for the Citizens' Panel? It was confirmed that the aim was to develop a database of residents who could be approached in relation to a range of consultations.
- Would the public surveys include contextual information about the Council's priorities and funding options? It was confirmed that this suggestion would be considered.
- Was the Council looking at best practice from other authorities and the private sector? It was confirmed that best practice from elsewhere was being considered and that ideas and suggestions were welcome in order to improve the process for the next two years.

RESOLVED That:

- 1) Councillor Whittle and Graham Ebers be thanked for presenting the Budget engagement proposals;
- 2) The Budget engagement proposals set out in the report be endorsed;
- 3) Members submit further ideas and comments on the proposals as necessary;
- 4) The Committee receive a further update report in 2018/19.