

Health Overview and Scrutiny Committee 20 January 2020 – Health and planning

Background

At the September 2019 Health Overview and Scrutiny Committee meeting, Councillor Frewin asked the following question and supplementary question.

Question

A recent planning application for a local quarry and cement works highlighted that the planning process does not appear to take health risks as a decision criteria. Will this Committee consider adding to its work programme a review of how the health care community can contribute to planning where there are significant community health concerns and risks as part of the planning application as part of their forward programme?

Answer

The planning system does make a significant contribution to promote the health of our communities through delivery of well planned development that provides a level of facilities and amenities to promote a healthy lifestyle.

I am aware that health risk is often raised by local people as a concern about individual planning proposals such as the recent quarry application. However, national planning rules require that risks to health are only considered by the planning system to the extent that they are not addressed by other regimes, for example environmental protection legislation and policy. If risks are addressed through these other regimes, they are not a material consideration in the planning application process.

The most positive contribution that Health Overview & Scrutiny Committee can make to the planning system is to input into the policy making process. The Local Plan Update is progressing and is scheduled to be the subject of a consultation starting this autumn. If Members are supportive, the Health Overview & Scrutiny Committee may wish to request the opportunity to review and comment on related policies ahead of confirming the consultation.

Supplementary Question

If the Committee decides to give further consideration to this issue, can it look at matters such as the amount of buffer zone between the activity and schools/care homes and the introduction of planning conditions which are difficult to enforce such as monitoring the prevailing wind direction.

Supplementary Answer

The Committee is sympathetic to the request and will consider the matter as part of the discussion of its work programme later on the Agenda.

The Committee requested a report about the issues relating to the planning process and health raised in Councillor Frewin's question for the Committee's next meeting.

Health in Planning Decisions

Local planning authorities must determine planning applications in accordance with the Development Plan, unless material considerations indicate otherwise. Although the courts have held that health issues controlled by other regulatory regimes cannot be material planning considerations, health issues are addressed in development plans and do inform planning decisions as set out below.

The current development plans are the Council's Core Strategy and the Managing Development Delivery Local Plan and these documents contain policies that overlap with health issues. The replacement development plan, The Local Plan Update (LPU) is to be considered for public consultation at the Council's Executive on 15th January and health and well-being is a theme that runs through this document and is recognised in the LPU's strategic objectives. While specific health issues are not addressed by local plan policies, there is a significant overlap between health and the environmental and social issues that are addressed by the planning system. In addition, the LPU will also be subject to a Health Impact Assessment (HIA),

What can constitute a material consideration is wide and health can be a material consideration. The National Planning Policy Framework states:-

Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

Health related issues are generally addressed through non-planning legislation and regulatory regimes for example:-

- An environmental permit from the Environment Agency for waste
- A license from the local Licensing Authority to operate a public house or takeaway
- Construction site safety is the responsibility of the Health and Safety Executive.

There is often an overlap between these regulatory regimes and the planning process and the local planning authority often consults other agencies about health related matters such as the CCG, Environmental Health and the Health and Safety Executive. The local planning authority takes their views into consideration in assessing planning applications and this can influence the outcome of a planning application and planning conditions. Generally however, the local planning authority will focus on the environmental or amenity conditions that can influence health rather than health itself or the regulations that address this.

Assessing Planning Applications

When planning applications are assessed, there are usually a wide range of material planning considerations that need to be addressed. As each site and proposal is unique, each case must be considered on its individual merits and the weight that is placed on these different issues varies.

Decisions must be based on evidence and conditions must be necessary. For example an Air Quality Management Area that has been monitored and shown to be in excess of air quality targets will be a relevant planning consideration. Also, a standard buffer zone around a certain site accommodating polluting industry could also be shown to be necessary through technical evidence. However, a standard policy such as x m of buffer around a nonspecific site or area such as any school could not be supported through evidence. This would require every school to be assessed and meet the conditions for this policy to be justified. Even if this approach was adopted by policy, this could then be challenged through the planning application process by evidence to show that this is unreasonable or unnecessary.

In addition to the above, the NPPF requires that policies are positively worded and therefore, they should not make statements about what cannot happen such as *there should be no development within x m of a care home*. Instead, a positive policy approach should be adopted for example, *development within x m of a care home will be supported if it can be demonstrated that this will not have an unacceptable impact on the amenity of residents*. Negative policies would not be supported by an Inspector at the forthcoming Examination in Public for the LPU.

Summary

Health is addressed in planning policies and can be a material planning consideration although it is also controlled through other regulations and agencies. Generally however, it is the environmental and social matters that impact on health that are the focus of the planning system.

Each planning proposal must be considered on its own merits and blanket evidenced requirements and policies for development in the interest of health are unlikely to be supported by Planning Inspectors. This is especially as they are negatively rather than positively worded as this would be contrary to the NPPF

Public health and wellbeing is at the heart of the plan making process. In light of this, it is recommended that while the Committee should not make recommendations about how specific planning conditions can be used to address health, it should focus on reviewing the local plan policies and feed into the LPU process.

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