

MINUTES OF A MEETING OF THE COMMUNITY AND CORPORATE OVERVIEW AND SCRUTINY COMMITTEE HELD ON 5 SEPTEMBER 2016 FROM 7.00 PM TO 8.10 PM

Committee Members Present

Councillors: Philip Mirfin (Chairman), Michael Firmager (Vice-Chairman), Ken Miall, Rachelle Shepherd-DuBey, David Sleight, Bill Soane and Shahid Younis

Other Councillors Present

Councillors: Parry Batth, Mark Ashwell and Angus Ross

Officers Present

Boniface Ngu Azeh (Principal Flood Risk and Drainage Officer), Francesca Hobson (Highways and Transport), Anne Hunter (Service Manager Democratic Services), Clare Lawrence (Head of Development Management) and Arabella Yandle (Democratic Services Officer)

9. APOLOGIES

An apology for absence was submitted by Councillor Chris Bowring.

10. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting of the Committee held on 26 June 2016 were confirmed as a correct record and signed by the Chairman.

11. DECLARATION OF INTEREST

There were no declarations of interest.

12. PUBLIC QUESTION TIME

In accordance with the agreed procedure the Chairman invited members of the public to submit questions to the appropriate Members.

12.1 Aaron Shone asked the Chairman of the Community and Corporate Overview and Scrutiny Committee the following question:

Question

When will WBC recognise that their wait and see policy concerning HMOs has failed in Shinfield Park and pursue a policy of enacting an Article 4 Directive to reduce the density of licenced and unlicensed HMOs operating in Shinfield Park?

Answer

Regulations and policies relating to HMOs are set out by Government and are relatively permissive. For an Article 4 Direction to be supported by the national office and not be called in by the Secretary of State, conclusive evidence of extraordinary circumstances must be provided. Such circumstances could be pressures from students or tourists on accommodation. In the case of Shinfield Park, no such special circumstances exist.

The Council would need to consult on an Article 4 Direction proposal and this would need to be supported by the majority of the residents of the area. Given that there have been a number of complaints, but from only a small proportion of residents, the Council is not satisfied that the Article 4 Direction would be supported by all local residents. Also, the Council would need to provide a one year notice period for the implementation of an Article 4 Direction and this may result in a greater number of properties being converted to HMOs in this period.

The Council has been monitoring HMOs in Shinfield Park and there has not been a significant increase in HMOs over the last year and given the changes in legislation, HMOs are now less attractive to investors.

The collection of the evidence would take significant resource and there would be no certainty any Article 4 Direction would be supported locally or nationally. Further, an Article 4 Direction cannot address existing HMOs.

12.2 Sue Dowds asked the Chairman of the Community and Corporate Overview and Scrutiny Committee the following question:

Question

Why has the council not considered parking as criteria for HMO licencing in Shinfield Park, given that parking conditions on the estate have been escalated to local councillors for the past 5 years?

Answer

Licencing criteria is set out by national legislation and can only address health and safety issues and specifically:-

- That the proposed licence holder and any manager of the property is a fit and proper person;
- That the proposed licence holder is the most appropriate person to hold the licence;
- That the proper management standards are being applied at the property;
- That the HMO is reasonably suitable, or can be made suitable, for occupation by the number of tenants allowed under the licence with at least the minimum prescribed standards of amenities and facilities. These include the number, type and quality of shared bathrooms, toilets and cooking facilities.

No other criteria such as parking can be taken into account in accordance with the legislation. If a license was refused on the basis of parking, this could be challenged through the courts and would constitute mal-administration on behalf of this Council.

12.3 Doreen Cozens asked the Chairman of the Community and Corporate Overview and Scrutiny Committee the following question:

Question

Why has the council interpreted the national guidance to only include three storey houses, when many HMOs operating in Shinfield Park are two storey houses and not considered a problem?

Answer

The regulations in respect of HMOs are set out by national legislation which specifies that a licence is only needed for a HMO of more than five people where the building (or parts thereof being used as a HMO) is three stories plus in height. The Council has no discretion in this or the ability to adopt a different threshold.

Supplementary Question

We have been told that there are places where there are two storey houses and they are recognised and are licenced. You have given me the answer but it does not actually answer what we have been told. This was told by another Councillor who actually knows of two storey HMOs and we have got lots of two storey HMOs. Why are they not recognised and licenced in Wokingham?

Supplementary Answer Provided by Clare Lawrence

The regulations are clear. I have not been given any examples of two storey HMOs that need to be licensed. Maybe if the member of the public could explain where these sites are then the Council could go ahead and look into those, but certainly the information I have received from the Licensing Authority is that there is a requirement for the HMO to be three storeys in order to require a licence.

13. MEMBER QUESTION TIME

There were no Member questions.

14. HOUSES IN MULTIPLE OCCUPATION

The Committee considered a report, Agenda pages 11 to 19, which provided an update on Houses in Multiple Occupation at Shinfield Park.

The issue had been previously considered by the Committee on 23rd November 2015 when Members had requested that the planning and licencing position be monitored and reviewed for submission to the Committee in 2016. It was also resolved that the Parish Council would be contacted to ascertain if it would fund the provision of additional parking at Shinfield Park and finally that the Executive Member for Resident Services would consider the issue of licencing of HMOs, particularly in the Shinfield Park Area.

Clare Lawrence stated that:

- there were no new planning applications for HMOs and no outstanding planning enforcement issues;
- there were 13 HMOs in Shinfield Park inspected as part of the process of licensing, but the only issue that could be considered through the licensing regime was the health and safety of the occupants;
- there had been a small number of complaints to Environmental Health;
- The Licensing and Environmental Health Teams have reported that there have been fewer applications for new HMOs as a result of the changes to the rules around investment for 'buy-to-let' making them less attractive to landlords;
- the Shinfield Neighbourhood Plan would be going to Executive at the end of September and if agreed there would be a referendum to adopt the Plan by the end of the year. This contains a policy relative to HMOs. Parking was one of the main concerns that residents had regarding HMOs. Civil Parking Enforcement (CPE) was due to be considered by the Executive in September and if adopted and applied to Shinfield Park, this could address parking issues.

Members raised the following points and questions:

- Members queried how the Council knew that there had been less interest in HMOs? Clare Lawrence explained that this determination came from information received from the Licensing Team who reported a reduced number of phone queries from across the Borough.
- Members queried the policy regarding parking provision for HMOs. Clare Lawrence explained that the policy contained within the neighbourhood plan requires one space per bedroom on or off site. To determine off site availability of spaces a parking survey may be required to feed into the planning application process. It was not easy to give a definitive answer as each case and site is unique. The key

question that would be applied in these situations was whether there was significant harm to residents – the survey would help in this assessment.

- Members pointed out that car ownership for all houses averaged 2.4 which was above the two per household allowed for in Government policy for new builds. Clare indicated that the Shinfield site application had been allowed at appeal when Government policy did not encourage parking. She stated that current Government policies required more parking provision than previously the case.
- Members questioned the Government's threshold for a licensable HMO as a house with three storeys and five occupants. Clare Lawrence reiterated that the Council could not go against this threshold without challenges through the courts and ombudsman. She explained that Article 4 was the only exception but stated that this would be unlikely to be successful as it would need to be supported by the majority of residents; that 'extra-ordinary' must be demonstrated, and because it would be contrary to the Government's de-regulation policies. Further it would take one year to be implemented which might escalate issues with landlords changing residential properties to HMOs before the cut-off date. An Article 4 Direction cannot address existing HMOs or related issues and it was felt that CPE offered the greatest opportunity for addressing resident concerns.
- Members asked if the local MPs could be asked to assist in changing the rules to allow parking to be addressed for all HMOs. Clare confirmed that current parking standards were evidence based. Studies would have to be updated and further evidence gathered. Residents however were free to contact their MPs to ask for this change to policy.
- Members asked for a further update on the possibility of finding land for parking. Ward members and local residents were trying to ascertain who owned available land, but Clare Lawrence stated that no funds had been allocated for this purpose within Wokingham Borough Council. Councillor Bath suggested that the attitude of some residents compounded the problem and raised the topic of some land at Old Whitley Wood Lane that was currently blocked because of travellers. Highways were open to it being used for parking however the residents would need to go back to the directors of Residential Management companies to clarify funding for maintaining the land.

RESOLVED: That the report be noted.

15. SUDS STRATEGY

The Committee considered a report on the SuDS Strategy, Agenda pages 21 to 24, which provided a long term vision for the use of Sustainable Drainage Systems (SuDS) within the Borough with a focus on managing flood risk and improving the water environment.

Councillor Ross, Executive Member for Environment, outlined the expected impact of the Flood and Water Management Act 2010, which would have given Wokingham Borough Council responsibility for SuDs on new developments. The Government however did not take this element forward instead proposing better use of the planning system and requiring the need to engage with developers.

Francesca Hobson provided an update on the current pressures on flooding and risk management in the Borough and the benefits that would accrue from the adoption of SuDS through the planning process.

Francesca went through the five sections in the SuDS Strategy. She explained that the local plan update suggests that there was a need for 800-900 new houses per annum to

be built in the Wokingham Borough catchment and that for this reason any approach to water management needed to be sustainable and appropriate. She explained that the SuDS strategy looked at flood risk, water quality and biodiversity, which had to be an integral part of any strategy. Francesca further stated that the River Loddon was currently failing under the EU Water Framework Directive because of high levels of phosphates found in the water and advised that SuDS offered a guide to the best methods of control for planners and designers taking into account land conditions such as the issue of infiltration where drainage was prevented by underlying clay.

Francesca advised that consultation on the Strategy had started on 28 July and was due to end on 16 September and a number of positive comments had been received. The intention was that the Strategy would be updated and would be a live document which would enable it to be changed more easily and quickly. Due to this process and the fact that it would be included in the Core Strategy, under section CC10, it would have weight in planning terms. It was noted that Wokingham Borough Council was one of the first councils nationally to have such a strategy and the first in Berkshire.

Members raised the following points and questions:

- Taking into account concerns about future expense in relation to maintenance and repairs, Members asked what work was being undertaken with developers to address this? Francesca confirmed that either the Council would adopt the SuDS or developers would be required to put in a process to address this which would involve management companies dealing with the maintenance. In addition the Council would calculate the commuted sums paid by developers to allow the Council to maintain the SuDS in future years. The developer would be required to submit maintenance plans as part of the planning process and the maintenance companies should provide the Council with inspection details on a regular basis. Francesca provided an example of the work being undertaken in Swallowfield where there was a swale and attenuation pond which would be the responsibility of the management company.
- Members queried what would happen if a management company ran out of money or went out of business. Francesca confirmed that the responsibility would fall back on the Council because of the overall responsibility of the Council as a Lead Local Flood Authority to manage surface water under the Flood and Water Management Act. The Council would need to ensure they had the funds available for this eventuality;
- In response to a question about whether there was a system to check existing SuDs and if assets could be designated Francesca responded that the Council has an asset register of features that could pose a flood risk if not maintained properly. The Council currently focussed on assets that they owned, but would then move on to privately owned assets. The Council was required to have a list of assets that could be a threat if not properly maintained. It also had the power to designate a flood risk feature to prevent changes being made without the approval of the Council. Funding was not needed to register assets but was required to carry out inspections;
- Members enquired how the WBC Strategy interfaced with other authorities and an example was cited of the 1000+ houses which were planned to be built near the boundary of Wokingham Without ward? Francesca stated that quarterly meetings were held with the neighbouring local authorities and they did work closely together.

Councillor Ross added that there was a Loddon Catchment Partnership which considered, amongst other things, pollution in the River Loddon;

- It was acknowledged that phosphates in water from farming were a problem therefore Members queried what relationships were being built with farmers to address this issue? The meeting was advised that the Council was working with other organisations including the NFU and other farming organisations on how best to tackle this problem. A project currently being looked at in Winnersh to try and reduce phosphates from the M4 and farming was cited.

RESOLVED: That the report be noted

16. WORK PROGRAMME 2016-2017

The Committee considered its Work Programme, set out in the Agenda pages 25 to 31.

Councillor Mirfin stated that he wanted the Committee to have the ability to consider arising issues as well as those that were programmed. He therefore asked members of the Committee to notify him by mid-October of any emerging items they wished to be considered at the next meeting.

The subject of Smart Motorways and their implications for the Borough were raised. The Democratic Services Officer was asked to investigate the feasibility of having this as a future agenda item.

RESOLVED That:

- 1) the review of the Voluntary Sector item be deferred until January 2017;
- 2) Members should notify the Chair by mid-October of any emerging that they wished to be considered at the next meeting;
- 3) the Democratic Services Officer to investigate the feasibility of having the implications on the Borough of Smart Motorways as a future agenda item;
- 4) an update on Travellers be prepared for the November Committee meeting;
- 5) the Work Programme, as amended, be confirmed.