

PLANNING & HOUSING OVERVIEW & SCRUTINY PANEL

TUESDAY, 15 AUGUST 2017

PRESENT: Councillors Richard Kellaway (Chairman), Michael Airey, David Hilton, Julian Sharpe (sub for Gerry Clark), Adam Smith (sub for Malcolm Alexander), Leo Walters and Malcolm Beer.

Also in attendance: Councillor Christine Bateson, Councillor Derek Wilson, Anu Chawla (Vice-Chair of the Holyport Residents Association) and Mark Newcombe (Chairman of the Craufurd Arms Society).

Officers: Communications, Tanya Leftwich, Russell O'Keefe and Jenifer Jackson.

APOLOGIES FOR ABSENCE

The Chairman welcomed everyone to the meeting, explained the fire procedures and asked everyone around the table to introduce themselves.

The Chairman explained that the meeting was being recorded.

Apologies for absence were received from Councillors Malcolm Alexander and Gerry Clark (substitutes were Councillors Julian Sharpe and Adam Smith).

DECLARATIONS OF INTEREST

None.

MINUTES

RESOLVED UNANIMOUSLY: That the Part I minutes of the meeting held on the 12 July 2017 were agreed as a correct record.

PETITION TO HOLD AN OFFICER TO ACCOUNT

The Chairman explained that this was a historic event as it had never come to Panel before.

The Chairman invited Anu Chawla (Vice-Chair of the Holyport Residents Association) to address the Panel for 5 minutes.

Anu Chawla explained that her speech had been prepared by Andrew Cormie (Chairman of the Holyport Residents Association) and would be presented by herself in his absence. The Panel was informed that there were seven documents (Document 1 = Council News 170802, Document 2 = Council Reg 19 170804, Document 3 = Representation Form Guidelines, Document 4 = email from Councillor D Wilson 170621, Document 5 = a letter from Councils Head of Planning to Andrew Cormie 170627, Document 6 = emails from Councils Head of Planning to Andrew Cormie series 01 and Document 7 = emails from Andrew Cormie to the Councils Head of Planning series 02) referred to in the speech which had all been emailed in advance of the meeting.

Anu Chawla went on to explain that this meeting arose from the petition Andrew Cormie created to have the Local Plan Consultation stopped and restarted after residents had been given the correct and complete information. However on 2nd August, Council issued their News Release, listed here as Document 1 where the Council had announced that they had extended the period of Local Plan Regulation 19 Consultation and that they would proceed in accordance

with appropriate Regulation. It was noted that the Council had also provided the text of the clarification provided by Government in response to Andrew's question.

Anu Chawla stated that the Council had drastically failed to operate in a proper legally correct manner and if they had not been stopped, the Inspector would have rejected the plan at the Regulation 20 stage due to non compliance with due process. The Panel was informed that the situation had since become worse, as Council on 4 August had misled the public again by issuing Document 2 with Document 3.

Anu Chawla informed the Panel that Document 2 was an email from Council which stated "The information contained in the email we sent you at the end of June 2017 continues to apply during the extended period for making representations; the only thing that has changed is the deadline for making representations." The Panel was informed that the email contained an attachment, Document 3, which explained about the same scope of comments as originally stated.

It was stated that the wording in the press release did not align with the email sent out by the Head of Planning in August.

The Panel was informed that Document 4 was an email of 21 June from Councillor Derek Wilson, Lead Member for Planning, to Andrew Cormie, in which Councillor Wilson referred to "...next stage of the regulation process to test the 'Plan' on 'Technical and Legal Soundness..."

Anu Chawla explained that Document 5 was a letter of 27 June from the Councils Head of Planning to Andrew Cormie of the Holyport Residents Association that restricted the scope of comments that may be made by referring only to;

1. Whether or not the plan was legally compliant (including Duty to Cooperate);
2. Whether it had met the tests of soundness:
 - Positively prepared - being based on a strategy that aimed to meet objectively assessed needs for development and infrastructure.
 - Justified - being the most appropriate strategy.
 - Effective - being deliverable over the plan period based on effective joint working.
 - Consistent with national policy – enabling the delivery of sustainable development in accordance with the NPPF.

The Panel was informed that Documents 6 and 7 were email correspondence between Andrew Cormie and Councils Head of Planning which failed to address Andrews questions. Anu Chawla stated that an explanation from the Head of Planning was needed and that others who might be able to help were the Monitoring Officer, the Chief Executive, the Lead Member for Planning and the Leader of the Council.

Anu Chawla went on to explain that the public needed reassurance and that the Local Government process must be transparent and it must be clear who was responsible and who was accountable for errors such as this. The Panel was informed that the Council Planning Authority was shown to be unworthy of being recognised as an "Authority".

The following questions had been submitted in advance of the meeting:

- 1) From where did the concept of the restricted scope of comment for the Regulation 19 Consultation arise?
- 2) What advice did Head of Planning give to Council, and to whom?
- 3) Was Head of Planning pressured by any Councillor into the course of action taken?

- 4) *Who is accountable for the persistent error?*
- 5) *Was the scope of the Consultation discussed and agreed upon by any Councillors at any Council meeting? If so, who advised them and may we see the minutes of meeting and the documents presented at such a meeting?*
- 6) *What will the Chief Executive do to ensure that such errors never recur?*
- 7) *It is necessary that it be established whom it is in RBWM Council who is the prime mover and controlling mind that is behind the obvious efforts to hide from residents their right to comment on any and all aspects of the Local Plan as highlighted in the letter from Sajid Javed. Having established that, the problem must be corrected.*

The Head of Planning responded to the seven questions with the below responses:

- 1) The Panel was informed that the purpose of Regulation 19 publication and the Regulation 20 consultation comments were not actually for the Council but for the Inspector who would ultimately be appointed by the Secretary of State to inspect the Borough Local Plan. It was noted that the Inspector would test the soundness of the draft plan, whether the duty to co-operate had been met and whether the plan was compliant. It was noted that there was no restriction to the scope of comment and there was a representation form for completion that had been based on a template from the Planning Inspectorate.
- 2) That this was a very general question and that it was assumed it related to advice on the submission of the Borough Local Plan (and Regulation 19). It was noted that this was in a document to Cabinet which could be found on the RBWM website.
- 3) Absolutely not.
- 4) That there had not been an error in the Regulation 19 process and that the Council had acted lawfully throughout.
- 5) That it had been a matter of public record at Full Council. It was noted that the scope of the consultations had been covered by the Regulations / legislation and adopted in 2016.
- 6) That there had not been an error in the Regulation 19 process.
- 7) That there had been no effort to hide from residents their right to comment and that the timetable to do so could be found on the RBWM website. The Head of Planning encouraged everyone present to also refer to the Planning Inspectors website as they might also find that useful.

The Chairman said that the Holyport Residents Association had been successful because the time period had been extended by an additional four weeks which meant people could still comment as they so wished. The Chairman informed everyone present that he was unsure as to why this had come before the Panel today because the Council did not comment as responses went through to the Planning Inspector.

The Chairman invited comments from the Panel which were noted as follows:

- Councillor David Hilton explained that on the 4th August a document called the 'Statement of a Representation procedure and statement of fact' was published which he read a paragraph from regarding the representation form. Councillor David Hilton stated that he felt bringing this before Panel was a sensible thing to do as confusion had been caused.
- Anu Chawla explained that whilst she understood what was being said about anyone being able to make a representation on Regulation 19 but it had been stated at that time that only technical representations could be made. Residents needed the ability to respond and make their points which the Council needed to help accommodate. The Chairman responded by saying that unfortunately planning was technical and needed to be within the NPPF. It was noted that whilst the Council could not go around to everyone the press had been very helpful and it was hoped they would continue to help.
- Councillor Julian Sharpe explained that he understood exactly where residents were coming from but felt it had now moved into a new situation as the time had been

extended and comments would be accepted which meant this had almost become irrelevant. The Panel noted that it was incumbent on the Council to make clear to residents that they could make comments on all aspects of the plan.

The Chairman informed everyone present that he would not be accepting questions from the general public on this subject. It was noted that questions should have been incorporated in the presentation from the registered speaker.

Councillor Malcolm Beer explained to everyone present that in initial statements the Lead Member for Planning, Councillor Derek Wilson, had specifically said this was a "limited response". It was noted that Councillor Malcolm Beer had previously read the Regulations and it had not qualified in any way about what the comments should be about so he felt Councillor Derek Wilson was saying something different to what the legal framework says.

Councillor Malcolm Beer went on to explain that a big concern of his was that there had been no Local Plan Working Group over the last year to discuss what had been going on. Councillor Malcolm Beer stated that it questioned who should be listened to – the officers or the Lead Member. It was noted that community group had sought legal advice which had come back stating there were no legal restrictions. The Head of Planning had issued a statement listing items which were covered which had only confused the issue, suggestion there were restrictions. Councillor Malcolm Beer explained that the Council had sought advice from Legal Counsel and were not sharing the advice received with the Councillors or members of the public. The Panel was informed that an elite group of at least four Conservative Councillors had seen sight of this advice which the Councillors and public at large were paying for.

The Chairman stated that Councillor Malcolm Beer had made his grandstanding point and that he believed it had been a very clear and transparent process, there was no plot and people had been informed what they could and could not do over the past few weeks at other meetings.

Councillor Michael Airey stated his disappointment at Councillor Malcolm Beers comments and points as he believed the Council had been trying to made things clear every step of the way and the opposition were trying to bring political slant. It was noted that a meeting had taken place with over 200 residents at the Regulation 19 & 20 stage which he had attended where clarifications had been received from both the Lead Member for Planning and the Strategic Director Corporate & Community Services, Russell O'Keefe. It was noted that the focus was on what the Inspector would be looking at for Regulation 19. Councillor Michael Airey informed the Panel that at that meeting it had been made perfectly clear that any comments could be made on any section of the Borough Local Plan. It was noted that the meeting had been documented publically and had also been reported on by the press.

The Head of Planning explained that she was the officer being held to account at this meeting and that she was a chartered, qualified Town Planner she was able to instruct Counsel and seek advice. It was noted that legal advice was confidential or otherwise she would be unable to act correctly in her role advising the Council.

The Chairman stated that there were six weeks left to make comments and proposed the following statement that the Panel had considered that the process for Regulation 19 Publication and Regulation 20 representations had been clearly set out and was lawful. The extension of the Regulation 19 period to 27 September supported by updated information contained in the Statement of Representation Procedure and Statement of Fact together with other information on the Council website would be of assistance to residents who wished to respond.

The Chairman stated that the Holyport Residents Association had made considerable progress and hoped this meeting had not been an anti-climax for those present.

RESOLVED That: The Planning & Housing Overview & Scrutiny Panel agreed (Councillors Kellaway, M.Airey, Hilton, Sharpe, Smith & Walters in favour and Councillor Beer against) that the Panel had considered that the process for Regulation 19 Publication and Regulation 20 representations had been clearly set out and was lawful. The extension of the Regulation 19 period to 27 September supported by updated information contained in the Statement of Representation Procedure and Statement of Fact together with other information on the Council website would be of assistance to residents who wished to respond.

PUBLIC HOUSE ARTICLE 4 DIRECTIONS

The Panel was informed that the Lead Member for Planning would bring before Cabinet in August. It was noted that 'non immediate' meant it would not come into effect for 12 months.

The Head of Planning informed the Panel that the report included in the agenda had since been revised and summarised the changes as below:

- Added in that there were 121 pubs in the Borough.
- Para 2.6 had been added to and now included that officers would liaise with colleagues at Wandsworth and Hammersmith & Fulham where this work had already been done in order to derive any learning and apply it in the Borough.

The Chairman invited the speaker, Mark Newcombe, to address the Panel for his allocated three minutes.

Mr Newcombe (Pub Protection Officer in Maidenhead & Chairman of the Craufurd Arms Society) informed the Panel that he supported the motion to progress the non immediate Article 4 Direction to remove the permitted development rights related to pubs. It was noted that the sole message to asset companies was that the Royal Borough recognises the importance in ensuring the protection of our pubs for generations to come.

Mr Newcombe explained that the addition of the Article 4 Direction would be an important step by the Council in recognizing the valuable contribution that pubs make to the well being of others and the community.

The Craufurd Arms was Maidenheads first community owned pub, the fifth in the country, an achievement that we as a Panel should be proud of. The campaign for real ale will continue to follow the business rate reliefs pubs and a freeze on beer duties, and while we continue to assess pubs as asset community value on a case by case value – without it the Craufurd Arms could've been sold to developers.

Mr Newcombe explained that he felt this would help pubs remain as pubs. Mark Newcombe thanked the Council for their support and advice received over the last four years and stated that he looked forward to working together in the future to save the Royal Borough's pubs.

Councillor Adam Smith commented that he believed the impending legislation (related to the Neighbourhood Planning Act) would be coming into force on the 23 May 2018. It was noted that if this was to be the case then Councillor Smith was concerned that the Public House Article 4 Directions had three issues:

- That Article 4 would be gold plating what the Neighbourhood Planning Act was hoping to achieve.
- It imposes costs.
- It was indiscriminate and would relate to every pub.

Following the ensuing discussion the following points were noted:

- The Head of Planning explained that that the work on this could be stopped and delayed going to Cabinet if the Panel so wished.

- The Head of Planning explained that a planning application would need to be submitted which meant that every application would be looked at on a case by case basis.
- Councillor David Hilton stated that the Council was not preventing any landlord from selling their premise but was ensuring that planning approval be sought beforehand.
- Councillor Leo Walters stated that he fully supported this paper as he felt pubs were very important for social reasons within a community.
- Councillor Malcolm Beer also stated that he supported this paper and questioned whether the 12 month notice period could be shortened to 6 months. The Head of Planning explained that it was part of the legislation so must remain as a fixed period of twelve months.

The Panel agreed that experiences of other Local Authorities should be sought (suggested by Councillor Beer).

The Planning & Housing Overview & Scrutiny Panel unanimously agreed to recommend that Cabinet:

- i. **Notes the report.**
- ii. **Delegates authority to the Executive Director to progress a non immediate Article 4 Direction in accordance with the legal requirements.**

DATES OF FUTURE MEETINGS

Members noted the following future meeting dates (7pm start):

- Thursday 19 October 2017.
- Thursday 7 December 2017.
- Thursday 1 February 2018.
- Wednesday 18 April 2018.

The meeting, which began at 7.00 pm, finished at 7.50 pm

CHAIRMAN.....

DATE.....