



Cabinet Member for Housing and Communities

Time and Date

10.30 am on Wednesday, 26th January, 2022

Place

Diamond Rooms 1 and 2 - Council House

Please note that in line with current Government and City Council guidelines in relation to Covid, there will be reduced public access to the meeting to manage numbers attending safely. If you wish to attend in person, please contact the Governance Services Officers indicated at the end of the agenda.

Public Business

1. **Apologies**
2. **Declarations of Interest**
3. **Minutes** (Pages 3 - 8)
 - a) To agree the minutes of the meeting held on 18 November 2021
 - b) Matters arising
4. **Petition for proposed ban on Houses in Multiple Occupancy (HMOs) in Moreall Meadows estates** (Pages 9 - 16)

Report of the Director of Streetscene and Regulatory Services

To consider the above petition bearing 136 signatures which is being supported by Councillor M Heaven, a Wainbody Ward Councillor, who has been invited to the meeting for the consideration of this item along with the petition organiser.
5. **Outstanding Issues**
6. **Any other item of public business which the Cabinet Member decides to take as matters of urgency because of the special circumstances involved**

Private Business

Nil

Julie Newman, Director of Law and Governance, Council House, Coventry

Tuesday, 18 January 2022

Note: The person to contact about the agenda and documents for this meeting is Usha Patel Governance Services Officer, Email: usha.patel@coventry.gov.uk

Membership: Councillor R Bailey (Shadow Cabinet Member), L Bigham (By Invitation), M Lapsa (Shadow Cabinet Member) and D Welsh (Cabinet Member)

By invitation: Councillors R Bailey and M Lapsa (Shadow Cabinet Members) and Councillor L Bigham (Chair of Communities and Neighbourhoods Scrutiny Board (4)

Public Access

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Usha Patel
Governance Services Officer,
Email: usha.patel@coventry.gov.uk

Coventry City Council
Minutes of the Meeting of Cabinet Member for Housing and Communities held at
2.30 pm on Thursday, 18 November 2021

Present:

Members: Councillor D (Chair)

Shadow Cabinet

Members Present: Councillor R Bailey

Other Members:

Councillor L Bigham (Chair, Communities and Neighbourhoods Scrutiny Board (4)
Councillor K Miks (Lower Stoke Ward Councillor, for item 24 below)

Employees Present:

D Butler, Planning and Regulation
C Eggington, Planning and Regulation
R Moon, Property Services and Development
U Patel, Law and Governance
A Walimia, Property Services and Development

Apologies: Councillor M Lapsa

Public Business

22. Declarations of Interest

Councillor K Miks declared an 'other interest' in the matter the subject of Minute 24 below headed "Stoke Aldermoor Life Centre – Update November 2021" as she is a Trustee of the Stoke Aldermoor Community Foundation. As Councillor Miks was invited to the meeting in her capacity as a Ward Councillor, she remained in the meeting and took part in the discussions.

23. Minutes

The minutes of the meeting held on 26 October 2021 were agreed and signed as a true record. There were no matters arising.

24. Stoke Aldermoor Life Centre - Update November 2021

The Cabinet Member considered a report of the Director of Property Services and Development which provided an update on the Stoke Aldermoor Life Centre as of November 2021.

Stoke Aldermoor Life Centre ("the Centre") is owned by the Council and has been managed by Volunteers of Stoke Aldermoor Community Association since they occupied this part of the building in 2007.

The purpose of the report was to update the Cabinet Member and to seek approval for an 'expressions of interest exercise' to consider if any other community groups would be interested to operate community activities. This exercise would be conducted whilst the existing occupier remained in-situ to continue with the daily activities within the centre and for the benefit of the wider community.

Stoke Aldermoor Community Association (SACA) currently occupy and operate out of Stoke Aldermoor Life Centre which is a Council owned building and within the operational property portfolio. SACA conduct various activities for the local community to use and the Council currently has a 'landlord' and tenant' relationship with the volunteers of the centre but without a formal agreement in place.

In February 2016, Cabinet approved the Connecting Communities Phase 1 report which included a recommendation that all community centres should be self-sustaining by March 2017 (no subsidy in the form of repairs and maintenance) and that Community Associations enter into leases to that effect. Majority of the community centres have entered into long leases and SACA remains one of the last few to complete this. The current set up of the existing organisation has not made it possible to enter into a long lease.

To date, the Council had spent £14,088 in 2018/2019, £18,620 in 2019/2020 and £25,829 in 2020/2021 and £11,400 during the current financial year 2021/2022, in reactive repairs and maintenance works in the centre.

The purpose of the report was to seek approval to invite community groups to express their interest to run and manage Stoke Aldermoor Life Centre. Following this exercise, a long lease would be available for the selected community group to consider further and take on the full management and maintenance of the centre. It was vital to appoint the right organisation for the benefit of all residents and the whole of Lower Stoke community. The main criteria for the organisation was to demonstrate a sound financial plan, previous building management experience and the proposal must include the facility to include all members of the community, regardless of age, sex religion and socio-economic backgrounds.

The existing occupier SACA would continue to run and operate from the centre and would be invited to submit their 'expressions of interest' accordingly.

Since the publication of the agenda and the report, an updated Business Plan has been submitted by Stoke Aldermoor Life Centre. The updated business plan had now fulfilled the criteria that was set out to them to confirm their financial position, trustees information, structure of the organisation and confirmation as a 'CIO' status. The business plan was forwarded to the Cabinet Member for information.

On the basis that the group had now provided the required information to enable the Council to consider them for a one year lease, the Cabinet Member would be now be recommended to proceed with Option 2 of the report at paragraph 2.2; "to consider entering into a lease for one year with SACA on a full repairing basis".

Councillor C Miks, a Lower Stoke Ward Councillor, attended the meeting and commented that the Centre has been running exceedingly well and expressed her

gratitude for the excellent work that the Centre has been doing and welcomed the opportunity to continue supporting the diverse community of Lower Stoke.

Representatives of SACA and Grapevine attended the meeting and expressed their appreciation for the opportunity to continue their work in the Centre.

Members present at the meeting welcomed the change in recommendation and considered this to be excellent news for the Centre and the wider community.

The Cabinet Member explained that the report had to be published to meet legal deadlines even though the negotiations were still ongoing in the background at the time.

RESOLVED that the Cabinet Member for Housing and Communities:

- 1. Approves the existing organisation, Stoke Aldermoor Community Association (SACA) to sign a one year lease and manage the Centre on a full repairing and liability basis with no financial support from the Council. This is on the basis that the organisation has now submitted an updated business plan to the satisfaction of the Council which demonstrates how they will operate and run the Centre**
- 2. Requests that an update report be submitted during the last 2 months of the one-year lease ending.**

25. Consultation on the Draft Affordable Housing Supplementary Planning Document

The Cabinet Member considered a report of the Director of Streetscene and Regulatory Services which sought authority to consult for a six week period on the draft Affordable Housing Supplementary Planning Document (SPD). The report would be considered by the Communities and Neighbourhoods Scrutiny Board (4) on 15 December 2021.

SPDs add further detail to the policies in the development plan but cannot introduce new policy. SPDs provide additional guidance for development and are capable of being a material consideration when making decisions on planning applications.

One of the key objectives of the adopted Coventry Local Plan was to deliver sufficient affordable homes over the Plan period to 2031. The aim of this SPD is to facilitate the delivery of affordable homes as set out in the plan and in compliance with the most up to date national policy as set out in the National Planning Policy Framework.

The additional guidance provided within the SPD sets out the different types of affordable housing as defined by Government and provides the detail on how these should be delivered. This included setting out the process in agreeing affordable housing delivery, affordability types and tenures, dwelling design, management structures and Section 106 Agreements for securing delivery.

Responses would be analysed and taken into account when considering amendments which may be required. The proposed final version would be reported to Cabinet for adoption, at which point it would replace the previous version.

Once adopted, this SPD would replace the outdated Affordable Housing Guidance which was adopted in February 2006.

Members in considering the draft SPD, raised the following points:

- They welcomed the additional work on S106 contributions to ensure developers deliver appropriately
- They welcomed the engagement with social housing providers
- Would like to see drive to encourage more 'homes for life' which are larger yet still affordable ie with wider doorways etc to make future provision for prams and wheelchairs
- There should be no visual distinction between good quality affordable housing and market housing

The Cabinet Member welcomed the discussion and in conclusion stated that the purpose of reviewing the SPD was to increase good quality affordable housing and making it clear to developers what is expected of them.

RESOLVED that the Cabinet Member for Housing and Communities authorises an extended (to account for Christmas holidays) seven week public consultation period on the draft Affordable Housing Supplementary Planning Document.

26. Consultation on the Draft Energy Supplementary Planning Document

The Cabinet Member considered a report of the Director of Streetscene and Regulatory Services which sought authority to consult for a six week period on the draft Energy Supplementary Planning Document (SPD). The SPD would be considered by the Communities and Neighbourhoods Scrutiny Board (4) at their meeting on 15 December 2021.

SPDs add further detail to the policies in the development plan but cannot introduce new policy. SPDs provide additional guidance for development and are capable of being a material consideration when making decisions on planning applications.

Providing further guidance on building standards as they relate to carbon reduction and climate change over the Plan period to 2031 is a key commitment set out in Policy EM2 (Building Standards) of the adopted Coventry Local Plan. The aim of this SPD is to provide technical guidance on energy standards and requirements to improve the environmental sustainability of new development in the city.

The additional guidance provided within the SPD would aim to provide clear information for applicants about policy requirements and expectations, clearly set out what detail the council expects developers to provide to assist the decision

making process and to encourage developers to promote excellence and best practice in sustainable development.

Members present at the meeting raised the following matters:

- Whether the SPD could be refreshed to reflect new innovations in technology
- Had consideration been given to regeneration by social landlords?
- Balance between regeneration to ensure energy efficiency and maintaining heritage

The Cabinet Member stated that the SPD sets out the Council's aspirations and informs developers of what is expected of them. It was acknowledged that there would always be conflicting priorities when working towards energy efficiency, a challenge between maintaining properties and their original features and making them climate appropriate.

RESOLVED that the Cabinet Member for Housing and Communities authorises an extended (to account for the Christmas holidays) seven week public consultation on the draft Energy Supplementary Planning Document.

27. **Consultation on the Draft Open Space Supplementary Planning Document**

The Cabinet Member considered a report of the Director of Streetscene and Regulatory Services which sought approval to consult for a six week period on the draft Open Space Supplementary Planning Document (SPD). The SPD would be considered by the Communities and Neighbourhoods Scrutiny Board (4) on 15 December 2021.

As with the previous SPDs, this SPD adds further detail to the policies in the development plan but cannot introduce new policy. SPDs provide additional guidance for development and are capable of being a material consideration when making decisions on planning applications.

The purpose of the Open Space SPD is to set out the Council's approach towards the provision of public open space in new residential development. It supplements Policy GE1 of the adopted Local Plan, which states that: "new development proposals should make provision for green infrastructure to ensure that such development is integrated into the landscape and conservation, design, archaeology and recreation".

The additional guidance provided within the SPD aims to provide clear information for applicants about policy requirements; which developments would trigger a requirement for open provision, how much open space should be provided, what kind of open space is needed and clear expectations in terms of design and delivery.

Members in considering the draft SPD raised the following:

- Whether canals were included within linear routes?
- Should the City be putting green space aside to deal with climate change to ensure a cooling effect around the city?

- Are smaller housing developments on green spaces looked at holistically to avoid housing creepage and ultimate loss of green space?
- Has consideration been given to the provision of green spaces within the city centre, especially for those who live there?
- Need to ensure allotments are provided within developments
- Developments should take into consideration the City's commitment to plant a tree for every resident in the city.

It was noted that planning were working closely with urban forestry to ensure that the policy is strengthened as we move towards a local plan review.

The Cabinet Member welcomed the discussions and concluded that the purpose of the consultation was to strengthen the open space supplementary planning document to ensure that there was provision of good quality green spaces within the city.

RESOLVED that the Cabinet Member for Housing and Communities authorises an extended (to account for the Christmas holidays) seven week public consultation on the draft Open Space Supplementary Planning Document.

28. Outstanding Issues

There were no outstanding issues.

29. Any other item of public business which the Cabinet Member decides to take as matters of urgency because of the special circumstances involved

There were no other items of business.

(Meeting closed at 3.45 pm)



Public report
Cabinet Member

Cabinet Member for Housing and Communities

26 January 2022

Name of Cabinet Member:

Cabinet Member for Housing and Communities - Councillor D Welsh

Director Approving Submission of the report:

Director of Streetscene and Regulatory Services

Ward(s) affected:

No

Title: Petition for proposed ban on Houses in Multiple Occupancy (HMOs) in Moreall Meadows estates

Is this a key decision?

No

Executive Summary:

This report responds to a petition containing 137 signatures which was submitted to Coventry City Council on 7th September 2021. The petition is sponsored by Councillor M. Heaven, a Wainbody Ward Councillor and requests that the licensing of all Houses in Multiple Occupation (HMO) in the Moreall Meadows estates be banned.

The petition reads:

“We the undersigned petition the Council to ban the licensing of any HMOs in the Moreall Meadows estates which covers Moreall Meadows, The Arboretum, Russet Grove, Cassandra Close, Poppyfield Court and Heritage Court”.

The petition provides a justification as follows:

The area already has a restrictive covenant that has been placed on the development area by the land deed agreement which was dated 27th March 1997 between David Wilson, developer and the private owners and Coventry Council. The tile number is WM44722. The restrictive covenant means that all houses must be occupied by single households and is supposed to last for 80 years before they would then be expired. The Blanket Banned HMO proposal would cover Moreall Meadows, The Arboretum, Russet Grove, Cassandra Close, Poppyfield Court and Heritage Court.

Recommendations:

The Cabinet Member for Housing and Communities is recommended to:

1. Consider the content of the petition and note the concerns of the petitioners.
2. Note that the Council's Additional Licensing Scheme regulates the suitability of landlords and adds conditions to licences.
3. Note that officers carry out proactive and reactive visits to potential unlicensed and licensed HMOs in response to complaints made by residents and where necessary takes a robust approach to enforcement.
4. Note that officers are to bring forward options for implementing an Article 4 Direction, and this work is currently underway.
5. Note that the existence of an HMO on Moreall Meadows estates is not a breach of the covenant and that because the Council is not a beneficiary of the covenant it cannot take any enforcement action against the freeholders with regard to the restrictive covenants as detailed in section 6 of the report.
6. Note the limitations of the Housing Act 2004 to refuse a HMO licence as detailed in para 1.2 of the report
7. Note that as a result of recommendations 5 and 6 it is not possible to ban the licensing of all HMOs in the Moreall Meadows estates.

List of Appendices included:

None

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

No.

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No.

Will this report go to Council?

No.

Report title: Petition for proposed ban on HMOs in Moreall Meadows estates

1. Context (or background)

- 1.1 The licensing of HMOs is undertaken in accordance with the Housing Act 2004 legislation which provides for the Council to administer Mandatory Licensing (A national scheme covering larger HMOs) and Additional Licensing (a discretionary scheme which requires other types of HMOs to be licensed where the Council has designated such a scheme). In Coventry Additional Licensing came into force on the 4th May 2020. The Council has a duty to administer HMO licences under both schemes and when it receives an application for a licence it must either grant or refuse a licence.
- 1.2 When deciding whether to refuse or to grant a licence the Council must satisfy itself that, a) the property is reasonably suitable for occupation by the number of people being applied for based on the level of amenities and facilities present in the HMO i.e. if there is a suitable kitchen and adequate bathing and toilet facilities then the property is suitable to be licensed and b) where the licence holder and manager are considered to be “fit and proper persons” – in other if they have a criminal record or have breached certain provisions relating to housing or other landlord and tenant law. Where these “tests” are met then there is no basis within the legislation to refuse to licence and noting that the restrictive covenant does not have a bearing on this matter, such a ban could not be reasonably implemented.
- 1.3 In cases where the Council is satisfied that the property meets the requirements described above then it must grant a licence. The licence can include conditions requiring the licence holder and manager to comply with certain responsibilities and complete any specified work ensuring that the property is brought up to standard and maintained effectively. Where a person fails to licence a HMO he commits an offence under section 72(1) of the Housing Act 2004 which the Council, if satisfied that the offence has been committed may impose a financial penalty of up to £30,000 or pursue a prosecution in the magistrate’s court.
- 1.4 Where the Council is unable to grant the licence for an HMO then it may take over the management responsibility for the property until circumstances change and it can then be licensed. There are special rules that apply when a Council takes over the management of an HMO in this situation.
- 1.5 In case where landlords do not licence their HMOs then the Council will carry out enforcement activity to enforce the requirement to licence. This is a staged approach based on the seriousness of the case. There are a range of enforcement options available to the Council, including punitive measures such as higher licence fees for shorter licences, revoking licences, financial penalties and, in more serious cases prosecutions.
- 1.6 As a matter of last resort where an HMO remains unlicensed then the Council can take over control of the HMO by making an Interim Management Order (IMO). The effect of this order is that the Council becomes the manager of the HMO and ensures that standards of management and any necessary repairs are maintained.

- 1.7 Where a conversion of a dwelling to a large (i.e. housing six or more unrelated persons) HMO then planning permission is required, and assessed against local and national policies, especially Local Plan Policy H11. Conversion from a residential dwelling to a small HMO is a Permitted Development Right and therefore does not require planning permission.
- 1.8 Councillor Welsh, as Cabinet Member for Housing & Communities, stated in Full Council on 07 September 2021 that he had instructed officers to bring forward options for implementing an Article 4 Direction, and this work is currently underway. An Article 4 Direction removes Permitted Development Rights such as the one noted in para 1.4 above.
- 1.9 Once implemented an Article 4 Direction by itself does not prevent new HMOs. Instead, it requires small HMOs to apply for permission which would otherwise happen without planning permission being required. The application would then be judged against policies in local and national policy.
- 1.10 The Council met with 12 residents and Councillor Heaven on the 16th June 2021 at Moreall Meadows and discussed concerns regarding a number of matters around planning and HMO licensing.

2. Options considered and recommended proposal

- 2.1 The Cabinet Member could ask officers to implement a comprehensive ban on the licencing of HMOs in the area detailed in the petition. However, as mentioned earlier under the Housing Act 2004 where the Council receives an application for a HMO licence it only has an option to either grant or refuse a licence. It cannot prevent landlords from applying for licences or ban licensing of HMOs and it should encourage landlords to make applications so that they are complying with their legal responsibilities. This option is therefore not recommended.
- 2.2 The Cabinet Member could ask officers to enforce the restrictive covenants placed on the properties, however, as can be seen from the legal implications below the Council is not beneficiary of the covenant and therefore it does not have the ability to enforce the covenant against the developer or those using their properties as HMOs. This option is therefore not recommended.

The Cabinet Member is therefore recommended to note the petition and its justification and to conclude that it is not possible to implement the requested actions. However, given the Cabinet Member's direction for officers to bring forward proposals that would deliver an effective Article 4 Direction, the issues relating to HMOs raised in the petition will be considered as part of the detailed work required for the implementation of an article 4 direction.

3. Results of consultation undertaken

- 3.1 There is no statutory requirement to consult on the measures set out in this report.

4. Timetable for implementing this decision

- 4.1 There is no timetable for implementing this decision as no actions are recommended.

Comments from the Director of Finance and Director of Law and Governance

5. Financial implications

None

6. Legal implications

- 6.1 Section 64 of the Housing Act 2004 places a duty on the Council to either grant or refuse an HMO licence where an application for such a licence is made to the Council. Under Section 64 (2) & (3) the Council must grant a licence where it is satisfied that the house is reasonably suitable for occupation by not more than the maximum number of households being requested and that the persons involved in the licence and the management of the HMO are fit and proper persons.
- 6.2 If these tests of suitability are met, then the Council has a duty to grant a licence and failure to do so could result in the Council acting '*ultra vires*' or beyond its powers.
- 6.3 Where a person fails to licence a HMO he commits an offence under section 72(1) of the Housing Act 2004 which the Council, if satisfied that the offence has been committed may impose a financial penalty of up to £30,000 or pursue a prosecution in the magistrate's court.
- 6.4 The assumption among the petitioners is that the transfer deed between the Council and the developer of Moreall Meadows contains covenants restricting each unit within the development for "use by a single-family" unit is incorrect.
- 6.5 The restrictive covenant contained within the 27 March 1987 transfer deed between the Council and the developer of the Moreall Meadows development states that the land cannot be used "for any purpose other than that of a private residence...". Given the vague wording of the covenant the Council would not be able to enforce it with regard to an HMO as the High Court ruled that an HMO falls within the definition of a "private residence" in *Roberts V Howlett [2002]*.
- 6.6 In any event the transfers between the developer and the freeholders of the individual plots within the Moreall Meadows development are between the developer and the freeholder. The Council is not a party to these individual agreements and therefore would be unable to enforce any restrictive covenant contained therein. The benefit of the restrictive covenant lies with the developer and therefore any enforcement would be the responsibility of the developer.
- 6.7 In law it is the responsibility of the beneficiary of a restrictive covenant to enforce its particulars through the civil courts. Therefore, the existence of a restrictive covenant on the streets detailed in the petition's justification could not be considered in either the issuing of HMO licences or planning permission where sought.

7 Other implications

None

7.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

This report itself does not respond to any of the council key priorities or objectives within the One Coventry Corporate Plan.

7.2 How is risk being managed?

There are no risks associated with this report.

7.3 What is the impact on the organisation?

There is no direct impact on the organisation.

7.4 Equalities / EIA

A full Equality and Impact Assessment (ECA) was undertaken as part of developing the Additional Licensing scheme and the Local Plan. As part of that analysis, the Council had due regard to its public sector equality duty under section 149 of the Equality Act (2010).

7.5 Implications for (or impact on) climate change and the environment

There are no implications identified

7.6 Implications for partner organisations?

There are no implications identified.

Report author(s): Adrian Chowns

Name and job title: Property Licensing and Housing Enforcement Manager/ Head of Planning Policy and Environment.

Directorate: Streetscene and Regulatory Services

Tel and email contact: adrian.chowns@coventry.gov.uk

Enquiries should be directed to the above person.

Contributor/approver name	Title	Service	Date doc sent out	Date response received or approved
Contributors:				
Davina Blackburn	Strategic Lead Regulatory Services	Streetscene & Regulatory Services	06/01/2022	13/01/2022
Usha Patel	Governance Services Officer	Law and Governance	14/12/2021	04/01/2022
David Butler	Head of Planning Policy and Environment	Planning and Regulation	14/12/2021	04/01/2022
Names of approvers for submission: (officers and members)				
Cathy Crosby	Lead Accountant	Finance	30/09/2021	11/10/2021
Gretchen Curtis Wheeler Mandeep Bajway	Legal	Law and Governance	11/01/2022	13/01/2022
No HR Issues				
Andrew Walster	Director of Streetscene and Regulatory Services	Streetscene & Regulatory Services	11/10/2021 14/12/2021	11/10/2021 04/01/2022
Councillor D Welsh	Cabinet Member for Housing and Communities		13/01/2022	14/01/2022

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