

# Overview and Scrutiny Task Group - Adoption of Estates

**Wednesday, 17 October 2012**

**Present:** Councillor Matthew Crow (Chair) and Jean Cronshaw, Julia Berry, June Molyneaux, Joyce Snape, Kim Snape, Ralph Snape and County Councillor Mike Devaney

## **Also in attendance**

**Councillors:** Councillor Steve Holgate

**Officers:** Jamie Carson (Director of People and Places), Jennifer Moore (Head of Planning), Carol Russell (Democratic Services Manager) and Dianne Scambler (Democratic and Member Services Officer)

## **07.CCS.06 WELCOME**

The Chair, welcomed County Councillor Michael Devaney, who was attending his first meeting as a member of the Group.

## **07.CCS.07 ADOPTION OF ESTATES - NATIONAL REVIEW**

The Head of Planning advised the Group about a scrutiny review that had been undertaken between the Department of Transport, the Department for Communities and Local Authorities regarding adoptions on a national scale.

Problems associated with the status and safety of un-adopted new streets had been raised by a number of MP's in the Commons.

Concerns included:

- A lack of knowledge or understanding by some parties of the existing complex and extensive system and how it is intended to work.
- Poor advice to those purchasing properties in explaining the processes, roles, responsibilities and liabilities that they and others have.
- Inconsistent processes and procedures used by Local Highway Authorities, (LHAs).
- Such processes can vary considerably across the Country with further differences between Unitary and Two Tier authorities.

In response to the House of Commons debates, the Department for Transport, (DfT) and Department for Communities and Local Government, (DCLG) met with Local Highway and Planning Authorities to discuss options and opportunities to improve the existing systems associated with the adoption of new streets in developments and any legislative amendments that would assist. The resultant Policy and Legislation Review Working Party commissioned a sub group of LHAs, led by Northamptonshire County Council, to consider the matter in greater detail and prepare a paper for further discussion.

Chris Bond, the Development Control and Road Adoptions Manager from Northamptonshire County Council had indicated that he would be willing to attend one of the Groups meeting to talk about their work and findings in relation to adoption issues.

**RESOLVED – That Chris Bond be invited to a future meeting of the Group.**

## **07.CCS.08 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Roy Lees and Dave Rogerson.

## **07.CCS.09 MINUTES**

**RESOLVED – That the minutes of the Overview and Scrutiny Task Group – Adoption of Estates meeting held on 19 September 2012 be confirmed as a correct record for signing by the Chair.**

## **07.CCS.10 DECLARATIONS OF ANY INTERESTS**

Councillor Julia Berry – resident on Kittiwake, Chorley

## **07.CCS.11 SCOPING OF THE REVIEW**

The completed scoping document was received by Members for information. Subsequent to the last meeting, the scoping of the review had been drafted in line with the Group's recommendations and had since been approved by the Overview and Scrutiny Committee on 3 October 2012.

The Chair also raised with the Group, arrangements for involving the public within the review. A representative from each of the chosen case study estates could be invited to talk to the Group about adoption issues on their estates and to establish if the issues that had been identified by the officers and Members were a true reflection of those that were faced by residents.

The Chair requested that Members of the Group submit suitable representatives from each of the four developments to Democratic Services so that the necessary arrangements could be put into place. Ward Councillors could also be approached to identify issues.

The Director of People and Places also suggested that the Council may be able to collate some information in relation to the issues on each of the developments from calls logged at the Councils Contact Centre.

It was important to manage public expectations about the impact of the review in making the necessary improvements to the process. The key was increasing public understanding and awareness of potential issues, as well as assisting them to better manage some of the issues themselves, for example, when purchasing a home on a new estate.

### **RESOLVED**

- 1. That the scoping of the review be noted.**
- 2. That Members identify suitable representatives from each of the four housing estates.**

## **07.CCS.12 CASE STUDIES**

At the last meeting, the Group had identified a mix of small and large existing unadopted housing estates across the Borough that could be used as case studies from which to identify the concerns and issues that existed.

The estates chosen were:  
Kittiwake, Heapey  
Fairview Farm, Adlington  
Gillibrand Street, Chorley  
Buckshaw, Buckshaw Village

A pack of relevant information had been collated for each housing estate that included information on:

- The planning background
- Various planning applications
- Section 106 Agreements
- Section 38 and 278 Agreements
- Highways information
- United Utilities information
- Any issues that had arisen
- Public Open Spaces and Leisure facilities
- Site plans
- Planning permissions that had been granted

**Members were advised that the background information that had been provided for this meeting was to be used as a reference document throughout the review and should be retained and brought to the future meetings of the Group.**

The Head of Planning took Members through the information contained within each of the packs.

Case Study	no of dev.	no of dwelling built	no of planning apps	no of Section 106	no of Section 38/278	no of un-adopt roads	drains adptd
<b>Kittiwake, Heapey</b>	4	147	7	3	-	0	No
<b>Developers</b>	<b>Maunder's Homes (NW) Ltd, who became Westbury Homes, Beazer Homes (Stockport) Ltd, Hassall Homes (Cheshire) Ltd and Dorbcrest Homes</b>						
<b>Fairview, Adlington</b>	2	205	7	5	-	11	No
<b>Developers</b>	<b>Westbury Homes (NW) Ltd and Persimmon Homes Places for People – Affordable Housing</b>						
<b>Gillibrand, Chorley</b>	4	661	29	6	6	37	No
<b>Developers</b>	<b>Redrow Homes, Miller Homes, Taylor Woodrow (Wimpey), Wilson Conolly</b>						
<b>Buckshaw Village</b>	6	1419 to present	108 to present	22	10	91	No
<b>Developers</b>	<b>Redrow Homes, Barratts, Persimmon, Miller Homes, David Wilson Homes and Rowland Homes</b>						

Members discussed the following issues that arose whilst reviewing the information that was presented:

1. Changes in property developer

The Group were advised that issues often became more complicated when developers went bankrupt and were taken over by other companies. The new developers often had differing ideas about what they want to build and amended

applications were submitted, which in turn generated amended Section 38 and 106 documents and planning permissions. This was a common occurrence and slowed the process down quite considerably.

In the case of the Fairview development the Group were informed that Westbury Homes (NW) Ltd had financial difficulties in the early 2000's and its property portfolio was taken over by Persimmon Homes. This led to lengthy negotiations to ensure the release to the Council of the commuted sums due under the Section 106 Agreement that were finally resolved in 2009.

The original Section 106 Agreement was dated 12 November 1999 with four further supplemental agreements on 22 August 2001, 7 September 2001, 5 December 2001 and 18 December 2009.

Members noted that the commuted sums of £377,335 that was allocated in the original Section 106 for the future maintenance of the Community Centre and £78,000 for maintenance of public open space was actually only received from the developer in February 2007, with a further £60,000 towards equipment at the Centre in December 2009.

## 2. Section 38 Agreements

If a developer wants a road to be adopted at some time in the future they can enter a formal agreement with County Council made under Section 38 of the Highways Act 1980 (called a Section 38 Agreement), which provides for an insurance bond so that the County Council can afford to complete the highways if the developer fails to do so. It includes for the roads to be inspected by the County Council during construction, then maintained by the developer for a period after construction (usually 12 months), and finally adopted as public highways.

However, the agreement cannot set a fixed timescale on the process. The timescale generally depends on the progress the developer makes with selling property (typically houses) along the road.

Neither the planning authority, nor the County Council can force the developer into entering a Section 38 Agreement.

The Section 38 requirements include the need to see that the surface water drainage is collected and disposed by the responsible authority, generally the local water company. If there is a problem with the drainage being adopted by the local water company, then it will not generally be possible to complete the highway adoption process.

If the developer goes out of business before a Section 38 Agreement is in place with appropriate insurances, there is no funding available to complete the highways works and adopt the road unless the residents have held back sufficient monies from their house purchase.

In the case of the Fairview Estate in Adlington a large number of the roads remained unadopted because there was an absence of Section 38 Agreements.

## 3. Gillibrand Community building

There had been many longstanding issues relating to the siting of the Community building on the Gillibrand Estate and consequently it had still not been built. The play area itself had been adopted by the Council but the ground around it still belonged to the developer. Redrow Homes still own the retaining wall around the Gillibrand Hall part of the site and Members reported that it was often difficult to get repairs done in a timely fashion.

#### 4. Multiple developers on large sites

It was also explained that on larger sites, the land was often sold in a piecemeal fashion, this generally resulted in there being more than one developer on site and differing ideas on design, not only in terms of housing builds but roads and infrastructure.

#### 5. Drainage issues

Prior to October 2010 drainage lines on new development that were to be adopted by United Utilities were usually limited to those lines within the road or main service pipes. Since October 2010 all drainage that is not for the sole purpose of one property would become subject to adoption (Section 104)

- Drainage scheme is forwarded to UU by developer and by LA Building Control/AI on receipt of application
- On commencement of drainage works UU inspect major sewer lines (within road or main service lines)
- LA/AI inspect plot drainage (lateral drainage) for themselves under the Building Regulations and on behalf of UU
- LA/AI notify UU when each plots drainage is complete and satisfactory
- UU pursue formal adoption of sewers.

On each of the estates the above had yet to be implemented as the mandatory build standard (MBS) for drains had yet to be released from UU. This gives the minimum standards for construction of drainage subject to adoption. It does not however, affect the operation of the Advanced Payment Code.

#### 6. Buckshaw – Role of the Officers Group

The Group did not get time to discuss the Buckshaw Village information in detail. However officers explained that this development offered a wide range of houses catering for all sectors of the community from retirement and care accommodation to a mix of affordable housing and had benefited from a phased Master Plan of development and by the establishment of the Buckshaw Officers Group, which has allowed stakeholders, developers and the offers from both local authorities to work together. They felt that this tailored management approach had been the key to the success and smooth implementation of the Section 106 Agreements on the site and thought that there were elements of this approach that could be used in smaller developments going forward.

**RESOLVED – That the information be noted.**

Chair