

Overview and Scrutiny Task Group - Adoption of Estates

Wednesday, 19 December 2012

Present: Councillor Matthew Crow (Chair) and Councillors Jean Cronshaw, June Molyneaux, Dave Rogerson and Kim Snape

Also in attendance

Councillors: Councillor Steve Holgate

Officers: Paul Whittingham (Development Control Manager) and Dianne Scambler (Democratic and Member Services Officer)

12.TG.25 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Julia Berry and Roy Lees.

12.TG.26 MINUTES

RESOLVED – That the minutes of the Overview and Scrutiny Task Group – Adoption of Estates meeting held on 28 November 2012 be confirmed as a correct record for signing by the Chair.

12.TG.27 DECLARATIONS OF ANY INTERESTS

No declarations of interest were received.

12.TG.28 PUBLIC CONSULTATION

Residents from each of the estates identified in the review were invited to attend the meeting to talk about the issues that they had experienced during the adoption of their housing estate.

A resident of the Buckshaw Village Estate attended the meeting to give his representations.

Issues and suggestions raised:

- Most residents had received standard general advice from their solicitor/conveyance when purchasing the property which had contained very little or no advice about adoptions.
- Concerns started to arise when routine maintenance and services didn't appear to be happening.
- There seems to be some confusion about which authority is responsible for doing what and initially on the Buckshaw Estate, bin collections could be by different councils within the same street because of the boundaries.
- Buckshaw Village has the added complication of having a Management Company to which all residents pay a fee. They have some general maintenance responsibilities and hold meetings to facilitate this, but there has still been some confusion about roles.
- Residents also pay their full Council Tax contributions on top of this but don't feel that they are getting a full service for their money.
- Many of the residents feel that there should be some kind of Watchdog /Ombudsman role by the Government to oversee the process of adoption and could be contactable by residents who are seeking advice and recourse.

- Another idea was to have a rating system placed on streets, similar to the Food Hygiene standards that would be available up front (on the Council's website) so that people knew what the adopted status of the area was before buying.
- There is very little information available on what is actually adopted on the estate and by whom.
- There seems to be no overall responsibility for general maintenance issues such as street lighting issues, road signs and gritting, this make it difficult to know who to contact.
- Local ward Councillors have been the best people to contact about issues in the village, they have been able to signpost people to the right place or have helped to get issues dealt with more efficiently.
- They don't tend to see any officers from Lancashire County Council but have had lots of dealings, advice and support from County Councillor Mark Perks.
- There is a contact telephone line available to the developers but this is mainly for issues around warranties and not for reporting general maintenance issues like grass cutting.
- The residents of Buckshaw Village feel that it is important to establish clear relationships with the various partners and improve on the level of information available. Effective communications would also help so that residents gain a better understanding of the issues and in turn manage expectations.

Residents of the Gillibrand Estate, Chorley attended the meeting to talk about their experiences.

Issues and suggestions raised:

- First time buyers are given the impression that the estates would be adopted in due course but no real timescales given.
- Inconsistent information given dependant on your conveyance.
- Next purchaser of a property given very little information about adoption.
- Evidence of sales falling through because of the lack of adoption on the estate, more around falling standards, lack of maintenance schedules now having an impact on the neighbourhood.
- Constant change of contactable personnel within the building companies makes it difficult to get issues dealt with in a timely fashion.
- Many residents very unhappy with the after sales care of the developers on the estate.
- A feeling amongst the residents that they are not getting the full services for their Council Tax because they are not adopted.
- There are often inconsistencies on the estate in relation to grass cutting standards, as different developers implement different maintenance schedules and different pieces of land, sometime neighbouring each other, are cut at different times of the year.
- Officers at Chorley Council have been extremely helpful in sign posting and helping to get issues addressed.
- Frustrated with Lancashire County Council officers and the procedures around the adoption processes that they are involved with.
- Long standing issues on the site in relation to surface water and overflow issues that is mainly the responsibility of United Utilities.
- There are a number of general maintenance issues that need to be addressed around the estate including barbed wire, drainage issues, broken fencing, boggy playing fields and lighting issues.
- Residents are disappointed that the developers are allowed to carry on building in the Borough before the problems on existing developments have been sorted.

A resident of Fairview, Adlington sent in written representation to the meeting.

- A letter was provided stating that in January 2007, Persimmon Homes were actively pursuing the adoption of the estate by the Council, this has still to happen.
- The main developer, Westbury (later acquired by Persimmon) and Bett Homes, have the main responsibility for the sewers and highways etc., although they finished building in 2005, the sewers/drainage system was not adopted until October 2010.
- Cruden finished building the 37 affordable houses on the remaining land early in 2012.
- There are some issues over the standard of the construction and condition of the roads on the estate as they are not considered to be of a good enough quality to enable adoption.
- The residents have now been waiting seven years for adoption of the estate
- There have been issues around land drainage and the culverting of a stream

12.TG.29 SCHEDULE OF ACTIONS AND SUGGESTED RECOMMENDATIONS

The Group were provided with a list of all the recommendations so far that had been proposed throughout the review and each one was discussed in turn.

The Group also looked through the recommendations that had been suggested in the Northamptonshire scrutiny review as the Members acknowledged that many of the issues raised were the same as the authority were experiencing now.

It was **AGREED** that the following recommendations be included in the Final Report of this review for the reasons stated:

Recommendation:

That the Executive Cabinet agrees to make representations to the National House-Building Council (NHBC) urging it to encourage developers to recognise the potential benefits to them of the introduction of a mandatory requirement relating to Section 38 agreements.

Reason:

It is recognised that the NHBC represents a powerful voice in the industry as they act as a bondsman for many developers entering Section 38 agreements. The NHBC, rather than the developer, is therefore directly affected if the County Council is required to call in a bond because work required to complete a road to adoptable standard has not been carried out.

Recommendation:

That the Executive Cabinet request Lancashire County Council to consider adopting a more flexible approach to the setting of bonds with developers, that are required before a Section 38 agreement is made to enable the level of bond to be set on a site-by-site basis that reflects the actual cost of completing the road concerned to the standard required of adoption.

Reason:

At present the usual practice for County Councils is to set a bond on a nominal cross section on a per linear metre basis representing 100 per cent of the theoretical cost of constructing the road(s) in question to an adoptable standard. When Chris Bond, Northamptonshire County Council had visited the Group he explained that he had been given delegated authority to set the bonds to reflect more closely the likely cost for construction in the actual case concerned, based on the constructional details that had been approved. This was an approach already being used by other highways

authorities and was proving a success. It would also address cases where higher quality materials are used, such as in public realm areas, which would cost the Council more to complete if the developer defaults and the bond had to be called in. The value of the bonds could be reduced when key milestones were reached, such as when roads are put on maintenance. It is important that the level of bonds are not reduced too far, or too soon, to a level where completing Section 38 agreements in order to clear bonds seems unimportant. This step is seen as an incentive to developers and would also support the County Council to be more active in calling-in bonds when a developer has defaulted.

Recommendation:

That the Executive Cabinet agrees to build on existing work with local planning authorities to put in place arrangements to ensure that consideration of road adoption issues commences at the planning application stage of the planning process, including:

- **Designing developments to provide separate access routes for residential and construction traffic**
- **A phasing implementation of larger developments**
- **Laying out and constructing roads to adoptable standards**

That the Executive Cabinet approves the draft set of planning conditions drafted by the National Scrutiny Review.

Reason:

It became clear at the very start of the review that the relationship between the planning process and the adoption of new roads was a key factor in the process. It is extremely important that the local authority should be allowed significant opportunity to exert leverage over developers at the point when they are looking to secure planning permission.

Recommendation:

That the Executive Cabinet be requested to commission a study of the Section 38 'caseload' in the Borough, to provide a full picture of completed and partially completed Section 38 Agreements.

That the Executive Cabinet agrees to pursue the development of a map-based system on the Council website to show information about the status of the roads in the county for use by the community. For example a Section that specifically relates too "would you like to live in Chorley". Potentially this could also be linked to the County Council website.

Evidence taken during the review led the Group to consider whether the difficulties and frustrations that could be experienced by members of the public were a question of how well the road adoptions process was understood, rather than an indication that it was not operating effectively.

Members recognised that the requirements of the road adoptions process and respective responsibilities of the Councils and developers would not be readily apparent to members of the public. Just because a Section 38 agreement was in place did not mean that a road had been adopted or inevitably would be. Residents would not necessarily seek redress from the developer for maintenance and other amenities such as street lighting and litter picking when the road remained unadopted. Also, even if the first owners of a new property were aware of any local road adoption issues, subsequent purchasers did not often have the same knowledge and the Group have sought to identify ways of supporting a greater understanding of the roads adoptions process and its implications for residents.

Members thought that an information portal could be developed on the Councils website that would enable members of the public to access information about the status of particular roads, potentially using the information that would be gathered from the requested commissioned study and may be linked into areas within the Lancashire County Council's website.

Recommendation:

That the Executive Cabinet agrees to make representations to the Law Society and the Council for Licensed Conveyancers urging them to consider whether conveyancers provide clients with sufficient information about the road adoptions process and how they may be affected by the status of roads serving a property.

Reason:

Even with the proposed measures to include more information for members of the public on the Councils website, the Group recognised that it was not realistic to expect prospective home buyers to be experts in highways and planning law and its implications for them. Speaking with various residents it became apparent that there were inconsistencies in the provision of information provided by legal professionals involved in the conveyancing process.

Recommendation:

That the Executive Cabinet be requested to commission a study of the Section 38 'caseload' in the Borough, to provide a full status of adoption across the borough.

Reason:

At an early stage in the review, the Group identified the need for a clear picture of the size of the existing 'caseload' and the factors preventing the adoptions process from being progressed in each case. Upon its completion, a prioritisation programme should be devised that would address the particular barriers to progressing the adoption processes more effectively.

Recommendation:

That the Executive Cabinet agree to seek regular dialogue with individual developers concerning their portfolio of roads in the borough to assist in progressing new and existing agreements.

Reason:

Any prioritisation programme would need to be supported by dialogue with the developers concerned. Members noted in the consultation with developers that they had identified the need to appoint one person with the specific task of driving the process of adoption through and thought that both the County and Borough Council needed to mirror this commitment.

12.TG.30 DEVELOPER CONSULTATION

Members agreed to invite representatives from the following developers that have built in the borough to the next meeting:

- Arley Homes
- Redrow
- Taylor Wimpey
- Wainhomes

RESOLVED – That a letter of invitation that included a list of suitable questions agreed by the Group be sent to the developers in advance.

Chair