

**MINUTES OF THE MEETING OF THE OVERVIEW & SCRUTINY COMMITTEE
HELD ON WEDNESDAY, 30 APRIL 2014**

COUNCILLORS

PRESENT Toby Simon, Alan Sitkin, Michael Rye OBE, George Savva MBE, Rohini Simbodyal and Geoffrey Robinson, Ahmet Oykener, Joanne Laban, Chris Bond and Terry Neville

ABSENT Alev Cazimoglu

STATUTORY CO-OPTees: *1 vacancy (Church of England diocese representative), Mr Simon Goulden (other faiths/denominations representative), Mr Tony Murphy (Catholic diocese representative), Alicia Meniru & 1 vacancy (Parent Governor representative) - Italics Denotes absence*

OFFICERS: Ray James (Director, Health Housing and Adult Social Care), Ian Davis (Director, Environment & Regeneration), Sally McTernan (Assistant Director, Community Housing), Jayne Middleton-Albooye (Principal Lawyer), Trevor King (Group Engineer, Network Management and Improvement), Stephen Skinner (Head of Highway Services), Mike Ahuja (Head of Corporate Scrutiny and Community Outreach), Jane Juby (Corporate Scrutiny Secretary)

Also Attending: Dr Meto Onwuamaegbu (Lead Petitioner) and colleague, approximately 35 members of the public

970

WELCOME AND APOLOGIES

Apologies for absence were received from Cllr Cazimoglu (Cllr Robinson substituting) and for lateness from Cllr Rye.

971

DECLARATIONS OF INTEREST

No declarations of interest were received.

972

CALL IN OF REPORT RE: PROPOSAL TO IMPLEMENT A BOROUGH-WIDE ADDITIONAL AND SELECTIVE LICENSING SCHEME FOR PRIVATE SECTOR LANDLORDS

This item was moved to Item 4 on the agenda.

OVERVIEW & SCRUTINY COMMITTEE - 30.4.2014

The Chair invited Cllr Neville to outline his reasons for the Call-In, given as follows:

- Cllr Neville did not wish to defend bad landlords or landlords as a sector of the community; the purpose of the Call-In was to examine the merits of the proposal. Good landlords were needed in the Borough.
- Only one other London Borough had adopted the legislation implemented in 2005; and it had taken this Borough until 2013 to do so. Three other Boroughs, Waltham Forest, Brent and Barking & Dagenham were considering implementing schemes but these were not good comparators for Enfield.
- The proposal implies that ASB is 'rife' in the Borough; Cllr Neville was far from satisfied that this was the case.
- Nowhere in the papers provided to Cllr Neville had he seen a clear, concise explanation of the benefits of the scheme in relation to ASB.
- ASB is endemic in society; it is not ascribable to any one sector or class (the summer riots in 2011 and the student riots in 2010/11 illustrate this). The suggestion that it is ascribable to one sector of the community is therefore a false premise.
- Regulation is already in place under the provisions of the Housing Act to deal with such issues as noise, rubbish dumping etc.
- All that the proposal does is raise money and identifies landlords in the Borough. However, Cllr Neville argued that the only landlords that would be identified would be the 'good guys'. Bad landlords would not participate.
- Cllr Neville referred to a Scottish scheme where only 75% of landlords had registered as at 2013. There seemed to be, therefore, much bureaucracy for little return.
- Cllr Neville then referred to the NKM report and stated that there were numerous caveats, for example, at page 5.
- Other sectors of the community were not referenced in the [NKM] report.
- The Cabinet report had selectively extracted information from the NKM report; Cllr Neville referred to pages 5 and 14 in this respect.
- Cllr Neville stated that the proposal was not a comprehensive enquiry and that the scheme was simply 'revenue raising by the back door'. Cllr Neville had grave doubts as to the motives for the proposal.
- In addition, new ASB legislation gave new grounds for possession to landlords which included a large range of offences – it therefore gave greater powers to landlords to act against bad tenants anyway.
- Cllr Neville felt that Prof. Mayhew had been asked to produce a report that was tailored to what the Council wanted to achieve, with the appropriate professional caveats inserted.
- Cllr Neville also stated that he felt the NKM report had been 'hidden' from the meeting and only his intervention had ensured that it had been properly circulated.

The Chair invited Cllr Oykenner to respond, as follows:

OVERVIEW & SCRUTINY COMMITTEE - 30.4.2014

- In previous reports it had been made clear that the scheme could not make a profit, and therefore was not raising revenue.
- The Opposition had previously been in support of such a scheme.
- Cabinet and the Administration had taken expert legal advice and had proceeded at all times in accordance with the law.
- The Council recognised the need to encourage good landlords. Cllr Oykenner strongly believed that the scheme would help build that relationship.
- Cllr Oykenner stood behind the decision that Cabinet had made – it was clear and justified.

Ray James, Director for Health, Housing and Adult Social Care, also responded as follows:

- Officers had gone to considerable lengths to ensure that the report had been compiled in a balanced fashion and challenged the opinion that it had been compiled selectively.
- He disputed that the NKM report had not been made openly available; it had been referenced in the published Cabinet papers of 9 April and was on the website and had therefore been transparently and publicly available.
- Independent experts had been engaged to compile the research and legal opinion had been sought to confirm that the level of correlation in the research was strong enough.
- He reiterated that it was reasonable of Cabinet to have taken the decision on this basis.

The Chair then invited Members of the Overview & Scrutiny Committee to make any comments or ask any questions.

Cllr Smith responded to Cllr Oykenner that he wished to clarify the Conservative position on implementation of a licensing scheme.

He confirmed that when Conservative Councillors had talked to officers they did express a concern at the increasing level of private landlords in the Borough. However, they were not aware at the time that Central Government was already looking at the matter and the Department of Communities and Local Government had produced a report in this respect. He was astonished that this had not been referred to in the Cabinet report. The DCLG had consulted on this report; but no mention of Enfield's response had been provided. The consultation had outlined reasons why licensing was not always a good thing to do. The Housing Minister had subsequently issued a press release to confirm that the Government was going to insist on its own private landlord registration scheme. Cllr Smith asked why this extremely relevant information had not been fully covered in the Cabinet report.

Cllr Savva commented at this point that, in his casework experience, he had heard from a number of tenants, many of whom were vulnerable people, living in unacceptable conditions. He had listened carefully to all the points made but could see no alternative way of dealing with the issue. The Council

OVERVIEW & SCRUTINY COMMITTEE - 30.4.2014

wished to join forces with landlords to ensure the health and safety of their tenants. Prevention was better than cure and the Council was there to protect vulnerable people.

Cllr Sitkin confirmed he had had similar experiences to Cllr Savva at his surgeries and that the Council had a fiduciary and ethical duty to raise this issue. He added that the basis for questioning the proposal seemed to be the NKM report findings and the consultation undertaken. Cllr Sitkin pointed out that a significant percentage of those consulted agreed with licensing landlords; and he wished to be reassured of the validity of that figure. He further added that Prof. Mayhew was a figure of stature with a long professional record; and that no doubt should be cast upon his credibility.

Cllr Neville responded that he had not doubted Prof. Mayhew's credibility but had only pointed out that there were a number of caveats within the report; which he agreed was an appropriate professional approach.

Cllr Oykener then commented that he echoed Cllr Savva's experiences and that both sides were aware of the need to improve housing conditions for some tenants.

Sally McTernan, Assistant Director of Community Housing, responded that the consultation undertaken had been a key part of the Cabinet report. It had been undertaken by an independent company to ensure fairness of approach. Prior to Christmas 2013 a 'listening' consultation had been undertaken where an invited group of landlords had met with the Council to test various hypotheses, of which Prof. Mayhew's report formed only part. A second, full scale, phase of consultation had been approved by Cllr Oykener and undertaken in January of this year.

The methodology used had been a web-based survey and a weighted telephone survey, which has statistical relevance. Three invitation workshops were also held in two areas of the Borough (Bowes and Edmonton).

Consultations had been made available at different times of the day and had been scheduled to avoid particular days when landlords would be processing rent accounts.

The consultation had found that most landlords were opposed to the Scheme, but most residents were in favour.

Cllr Rye commented that he recognised the issues involved but that he thought using a piece of legislation to address ASB to 'fish' for other information on private sector landlords in the Borough was wrong (which is what he thought the proposal aimed to do). He recognised the validity of Cllr Savva's comments but the Government would be tackling such issues more directly. He added that only a minority of people cause a problem in private sector housing and that any issues with problem tenants could be resolved in other ways. He proposed that the most sensible course of action would be to refer the proposal back to full Council, or the Cabinet Member.

OVERVIEW & SCRUTINY COMMITTEE - 30.4.2014

Cllr Simbodyal asked officers how many landlords they had engaged with during the consultation and how their concerns had been addressed.

Cllr Oykenner responded that, for example, the Council had listened to landlords' views on the cost of licensing and had therefore offered the early bird option. As well as this, in response to landlords' concerns at the level of bureaucracy involved in registering for the Scheme, Cabinet had agreed that an online submission should be offered, which would take no more than 30-40 minutes to complete.

Sally McTernan responded to the point raised by Cllr Smith on why there appeared to be no reference to the DCLG consultation in the Cabinet report. She commented that officers had responded to a large number of housing consultations so could not give a definitive answer at the meeting but would come back to him on this point **ACTION: Sally McTernan.**

Sally McTernan also responded that the consultation and engagement with landlords had been very lively and very interesting. She referred to s.4.24 of the Cabinet report which listed the various suggestions and improvements to the Scheme as a result of this engagement.

Ray James reiterated the Council's wish to work with responsible landlords, especially in order to help identify bad ones. He added that it was openly acknowledged that you could not have definitive data (this was contested by the Lead Petitioner).

He also commented that any responsible piece of research would include caveats such as those in the NKM report and repeated that this report had been openly available. The Cabinet report openly set out trends identified in ASB and that housing related ASB remained a persistent and stubborn problem which was borough-wide.

The Chair of the Committee then invited members of the public to put forward any questions or make comments, which were as follows:

A resident stated that he believed and agreed that everyone had a right to good quality housing. However, he did not think that the proposal would meet the objective. He referred to the advice from Counsel the Council had sought and asked how strong the correlation needed to be.

The resident then commented that there was information in the Mayhew report that had not been published and that, in fact, many residents did not support the Scheme; the majority of respondents to the consultation did but the sample size for this was only 1,000; the total population of the Borough was around 330,000. He also commented that the framing of questions in any consultation would influence the kind of response you would get. He stated that the Landlord Accreditation Scheme was already in existence; so could not see the purpose in introducing another similar scheme. He also commented that self-certification would create a liability issue for the Council, which would

OVERVIEW & SCRUTINY COMMITTEE - 30.4.2014

have to be borne by all Council Tax payers in the Borough. He ended his comments by stating that the Scheme would prohibit the parking of commercial vehicles on a tenant's driveway – this would penalise any tenants who ran businesses that used such vehicles and prevent repairmen from parking on the property.

A second resident then asked why the Council did not simply use its existing enforcement powers to address any instances of houses in disrepair. He asked why the Council was not applying the scheme to its own properties in order to deal with its own problem tenants. He disagreed that the scheme would help to prevent ASB and argued that the sample size and frame for the consultation had not been adequate.

A representative of the National Landlords Association commented that the NLA and the Council had common ground in seeking to improve conditions and raise the professional standards of landlords. However, the Council had failed to approach the NLA for their contribution during its consultation, despite its large membership. He felt that the consultation questions had been framed in such a way as to obtain the answers the Council wished to receive and it had not pointed out to consultees the negative aspects of introducing such a scheme; such as the fact that rents would be likely to rise or that Assured Shorthold Tenancies would be reduced as landlords would want any tenant with any history of ASB out of their properties as soon as possible. He thought the Council was not applying the powers it already had to deal with ASB. He also commented that, according to his information, Newham Council were going to drop their scheme as it was unaffordable. He concluded by commenting that the Scheme would simply penalise good landlords.

A third resident informed the meeting that he was a member of the Accredited Landlords Scheme and had been attending meetings in this regard for many years. He commented that he was a landlord of a number of properties, had a number of Homefinder and Housing Benefit tenants and consequently had a good working relationship with many officers in the Council; but that no-one from the Council who attended ALS meetings was present that evening. He expressed his dissatisfaction that no-one from the Council had made any mention of the proposals to the ALS until January of this year; even though the ALS was responsible for 4,000 properties in the Borough. He asked why no-one had approached them to ask questions or inform them as to what was going on and that good landlords could work on the Council's behalf in identifying rogue landlords.

Cllr Neville commented that Cllr Oyken had already previously acknowledged that the private sector was not the key driver for ASB and that landlords could easily be tracked via the Land Registry system. It was suggested that Cllr Oyken's earlier statement that the scheme 'would not make a profit' was a sweeping statement to make and if that was the case, where would the money generated be going? The validity of the statistics was also questioned; data had not been included in the final report.

OVERVIEW & SCRUTINY COMMITTEE - 30.4.2014

The Chair invited officers to respond to the various points raised.

Sally McTernan responded to the question of whether the NLA had been approached during the consultation and confirmed that a written submission had been received from them. As well as this, a deputation had been given by a member of the NLA at the Cabinet meeting on 9 April. The depute had also been at a consultation event prior to Christmas 2013. She therefore felt that the NLA's views had been taken into account.

Ray James responded to the question regarding Counsel's opinion on the degree of correlation. He commented that Counsel's opinion had been sought on the robustness of the research undertaken but there was not a definitive degree of correlation required in this context. He could not provide any further detail on this point as the content of Counsel's Opinion was legally privileged.

The response given to the point regarding degree of correlation was challenged; the resident felt that this point had not been answered satisfactorily.

Cllr Oykenner responded that he wished to repeat his earlier comments; namely that he had listened to landlords' concerns regarding the cost by offering the early bird option, that good landlords were needed and the Council wished to work with them and that the Scheme would help build a better relationship between landlords and the Council.

Cllr Neville stated that he would submit a Freedom of Information Act Request if he did not receive adequate responses to the questions he had raised, particularly as to whether or not all of Professor Mayhew's report had been published.

Ray James responded that the Council had commissioned independent research without seeking to interfere with that research in any way and that, to his knowledge, no part of Prof. Mayhew's report, as submitted, had not been published.

Cllr Neville replied that he still felt there were outstanding questions to be answered and whilst he was in no way suggesting any malevolence, the questions he had put forward had not been clearly answered. He added that the proposed Scheme would not give any additional powers to the Council that were not already there (and would like to see how those existing powers have been used over the years). If this was the case, what was the purpose of the Scheme? He asserted that it would simply create a large amount of additional resource which was not fully quantified in the Cabinet report. He added that there was a cost to any inspection regime and asked why this could not be done without the introduction of licensing. He contested that it improved the identification of landlords and that this could be done anyway with existing powers. The key to the success of the Scheme was its enforcement.

OVERVIEW & SCRUTINY COMMITTEE - 30.4.2014

The Chair then asked Members of the Overview & Scrutiny Committee to vote on the decision.

Cllr Rye **MOVED** that the decision be referred back to the first full Council after the elections, to ensure mature reflection.

The vote was as follows:

Councillors Rye and Smith voted against the decision and for referral back to full Council;

Councillors Simon, Simbodyal, Savva, Sitkin and Robinson voted in favour of the decision.

The Chair confirmed the Decision as **CONFIRMED**.

973

PETITION AGAINST PROPOSAL FOR LICENSING OF PRIVATE LANDLORDS IN ENFIELD

This item was taken as item 3 on the agenda.

The Chair invited the Lead Petitioner to introduce the Petition to the Committee; and confirmed that he had a maximum of 7 minutes to speak.

The Lead Petitioner referred to a document he had circulated at the meeting 'Critical Appraisal of the Study on the Relationship Between ASB and Privately Rented Properties in Enfield' which had examined the report/study provided by NKM, November 2013 'Understanding the Relationship Between Private Rented Properties and Anti-Social Behaviour in Enfield' summarised in the Cabinet Report. The Lead Petitioner made the following points:

- The Lead Petitioner questioned whether or not there was a need for such a study at all as persistent ASB (Anti-Social Behaviour) had been identified as a constituent behaviour of psychological disorders.
- Legislation had already been introduced on three previous occasions in 1998, in 2003 and in March of this year to tackle ASB (and therefore there was no need for any further measures).
- Housing Benefit/Social Housing were the key drivers of ASB (rather than the privately rented sector); the Lead Petitioner referred to a study undertaken in Milton Keynes which proved this point.
- Contrary to what was indicated in the Cabinet report, ASB was in fact falling in the Borough. There had been a 15% decline in all crime, including ASB, according to ONS statistics published on 24 April. It was recognised that there was an issue with knife crime in the Borough, particularly in Edmonton, but the Police were very effective in dealing with ASB issues.

OVERVIEW & SCRUTINY COMMITTEE - 30.4.2014

- MOPAC data had also shown that crime had generally declined between 2011 and February of this year in Enfield; there had been 1,122 crimes in the Borough in April 2011 and only 979 in February of this year.
- No research questions had been asked in the study, no inclusion and exclusion criteria had been used and no intervention proposed. Further, the model for the study was probabilistic and therefore could only guess at results.
- The map on page 5 purported to show the distribution of high risk HMOs. However, practically any criteria could be used to obtain the same sort of graph.

At this point in the meeting, Cllr Simon reminded the Lead Petitioner that he had a further minute to conclude his presentation.

The Lead Petitioner consequently summarised his presentation by stating that the study did not cite any references and was not powered to make statistical statements. Levels of crime, including ASB were falling and were less than that projected in the study. Therefore, the research in the study used for the Cabinet report was misleading.

The Chair then invited Cllr Oykenor to respond to these comments.

Cllr Oykenor referred to the papers provided to the Committee and attendees.

He reminded attendees that a £250 early bird discount was available if landlords paid the fee in advance of 2015. Otherwise, a fee of £500 (and not £575) was payable. This equated to £2.21 per week; or only 96p per week if the early bird discount was taken advantage of. Further, this discount was fully taxable.

Cllr Oykenor then commented that the Council had investigated the relationship between ASB and private rented houses and had seen a correlation. It had never, however, stated that the private rented sector was the key driver of ASB per se.

Cllr Oykenor reassured the Committee that extensive consultation had been undertaken and that 84% of consultees wished such a scheme to go ahead. Independent experts had been used and Counsel's view on this had been sought.

Cllr Oykenor acknowledged that there would be differences of opinion regarding the scheme but that it was clearly reasonable for the Council to have taken a decision based on independent research and expert legal opinion.

OVERVIEW & SCRUTINY COMMITTEE - 30.4.2014

Cllr Oykenner further commented that he had recently attended a meeting at the London Borough of Newham (who had been running a similar scheme for a year); their experiences to date had reinforced their own prior research.

Cllr Oykenner reiterated that the Council would continue to work with landlords to refine the scheme so that it operated in the most workable way possible.

Cllr Simon invited the Committee to formally RECEIVE the Petition and to proceed to the Call-In, during which a more substantive debate on the matter could be undertaken. This was agreed.

974

CALL IN OF REPORT RE: BOROUGH CAPITAL PROGRAMME 2014/2015 HIGHWAY MAINTENANCE AND RELATED SCHEMES: PROGRAMMES OF WORK

The Chair invited Cllr Laban to outline the reasons for the Call-In, which were as follows:

- At a previous Overview & Scrutiny Committee meeting, Cllr Bond had stated that replacement of footway would be on a 'like for like' basis.
- Cllr Bond's response to the Reasons for Call-In appeared to outline a replacement programme that does not, however, take this approach; there was therefore a discrepancy between what had previously been and what was currently being stated as the Council's policy on footway replacement and repair.
- The report does not deliver 'Fairness for All' as some people will not have paving replaced with paving but will have tarmac outside their properties instead.

The Chair then invited Cllr Bond to respond, as follows:

- Cllr Bond stated that the policy was quite clear; and that use of materials on a 'like for like' basis was only in the instance of repair.
- A significant amount, £8.5m every year, was spent on replacing and repairing footways and so consideration needed to be given to the amount of resource available. Replacing paving with paving in all instances would consequently reduce the amount of replacement that could be done within budget.
- The Council's approach reflected that of many other London Boroughs.
- Paving would therefore only be replaced with paving in Conservation Areas and in shopping centres; asphalt would be used everywhere else.

Cllr Rye commented that this was a significant deviation from what he had understood to be the Council's original policy. The extensive use of asphalt would be aesthetically unpleasant and created a more hazardous surface in the winter – asphalt became extremely slippery when covered with ice which was particularly dangerous for, say, the elderly. He felt the extensive use of

OVERVIEW & SCRUTINY COMMITTEE - 30.4.2014

asphalt would be a blight across the Borough, and that he had understood very clearly from the last Overview & Scrutiny Committee meeting at which the matter was discussed that replacement would be on a 'like for like' basis except in certain circumstances such as vehicle overrun (which caused repeated cracking of pavements).

Cllr Simon responded that he understood the policy was that replacement would only be on a 'like for like' basis if a short section of road required repair; for a substantial section or whole road replacement, asphalt would be used.

Cllr Smith agreed that replacement of paving with asphalt was necessary in such cases as vehicle overrun but that the use of asphalt on every road apart from those within Conservation Areas and shopping centres constituted a major policy change and was not what had been stated previously as the Council's policy.

Cllr Simbodyal asked Cllr Rye whether his objection to the use of asphalt was primarily for aesthetic reasons.

Cllr Rye responded that, as mentioned previously, it could also be dangerous in icy conditions and that the surface could sink and become uneven over time.

The Chair asked officers whether, in their professional experience, asphalt was more or less hazardous a surface than paving in icy conditions.

Stephen Skinner responded that asphalt had a greater 'roughness of surface' than paving and was less hazardous.

Cllr Sitkin added that any discussion on which materials should be used was meaningless without reference to the severe financial constraints currently placed on the Council. However, he was aware that some 'micro-communities' felt very strongly that roads in their area should be paved and was willing to explore exceptions to the general policy. Paving could be, for example, replaced using other sources of funding in such cases.

Cllr Simbodyal asked officers whether the use of bituminous macadam reduced the levels of insurance claims against the Council for tripping (on uneven paving).

Stephen Skinner responded that there was a definite correlation.

Cllrs Laban, Smith and Rye recorded their opposition to the decision and requested that it be referred back to the Cabinet Member for reconsideration.

A vote was then taken:

Cllrs Rye and Smith voted against the decision;
Cllrs Simon, Savva, Robinson and Simbodyal voted for the decision;
Cllr Sitkin abstained.

The Chair noted that the Decision was **CONFIRMED**.

975

DATES OF FUTURE MEETINGS

The Chair confirmed that this was the last meeting of Overview & Scrutiny Committee in the current Municipal Year; all Members were thanked for their participation.

976

ANY OTHER BUSINESS

The Minutes of the Meeting held on 27 March 2014 were **AGREED** subject to noting that Cllr Rye had sent his apologies which would be recorded.

The Minutes of the Meeting held on 3 April 2014 were **AGREED**.

977

EXCLUSION OF THE PRESS AND PUBLIC

This item was not moved.