

# ENVIRONMENT OVERVIEW AND SCRUTINY COMMITTEE

Wednesday, 31 January 2018

Present: Councillor P Stuart (Chair)

Councillors S Foulkes A Sykes  
T Jones B Berry  
B Kenny A Hodson  
C Muspratt I Lewis  
T Smith T Pilgrim  
T Usher C Carubia  
W Ward J McManus (in  
place of  
L Reecejones)

Apologies Councillor L Reecejones

## 41 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST / PARTY WHIP

Members were asked to consider whether they had any disclosable pecuniary interests and/or any other relevant interest in connection with any items on the agenda and, if so, to declare them and state the nature of the interest.

Members were reminded that they should also declare whether they were subject to a party whip in connection with any items to be considered and, if so, to declare it and state the nature of the whipping arrangement.

Councillor Foulkes declared a personal interest in item 3, 'Notice of Motion: Economic Viability Assessments form Developers' by virtue of his position on the Board of Magenta Living. However, on the raising of an issue related to a particular development during debate on that item, he left the room while that issue was considered by the Committee, returning for the remainder of the debate.

## 42 CHAIR'S ANNOUNCEMENTS

The Chair advised that this would be the last meeting of the Committee attended by Patrick Torpey, Scrutiny Officer before he left the Council to take up a new position.

Members of the Committee thanked Patrick for his work in support of the Committee and wished him well for the future.

The Chair, with the concurrence of the Committee, advised that due to the nature of the business under consideration, agenda item 4 'Notice of Motion 'Planning Ahead to use the Community Infrastructure Levy"' would follow consideration of agenda item 6 'Wirral Local Plan – Report of Progress Since 2004'.

43 **MINUTES**

Members were requested to receive the minutes of the meeting of the Environment Overview and Scrutiny Committee held on 30 November 2017 and of the special meeting of the Committee held on 7<sup>th</sup> December 2017.

**RESOLVED:**

**That the minutes of the meetings held on 30 November and 7 December 2017 be approved.**

44 **NOTICE OF MOTION 'ECONOMIC VIABILITY ASSESSMENTS FROM DEVELOPERS'**

At the meeting of the Council held on 11 December 2017 (Minute 100 refers) the following Notice of Motion, 'Economic Viability Assessments from Developers', proposed by Councillor Stuart Kelly and seconded by Councillor Chris Carubia was referred by the Civic Mayor to the Environment Overview and Scrutiny Committee for consideration –

**Economic Viability Assessments from Developers**

"This Council recognises the pressing need to provide quality homes which are affordable to those on low and middle incomes in Wirral and for transparency with regard to planning applications to ensure that the Council's own policies on affordable housing requirements are met.

Regrettably, a recent report from the housing charity, Shelter, has revealed the widespread use and abuse of Economic Viability Assessments (EVAs), resulting in thousands of affordable homes being lost every year because of viability assessments. (Slipping through the loophole: How viability assessments are reducing affordable housing supply in England)  
[http://england.shelter.org.uk/\\_data/assets/pdf\\_file/0010/1434439/2017.11.01\\_Slipping\\_through\\_the\\_loophole.pdf](http://england.shelter.org.uk/_data/assets/pdf_file/0010/1434439/2017.11.01_Slipping_through_the_loophole.pdf)

Council are dismayed that there are companies who are openly boasting in their promotion that they can help developers to avoid paying Section 106 monies and making appropriate levels of affordable housing provision. These companies produce EVAs in order to demonstrate that developers are not

making sufficient profits to enable councils to insist on full 106 or affordable housing contributions.

<http://www.s106management.co.uk/how-it-works>

Whilst some of these EVAs are submitted in good faith, there is sufficient evidence to suggest that the reports can be prepared in such a way as to attempt to confuse local planning committees and present a misleading picture. Some London councils, such as Lambeth LBC, now insist that EVAs are no longer able to be submitted unless they are able to be viewed by members of the public and in open session at planning committee meetings. <https://www.lambeth.gov.uk/sites/default/files/pldevelopment-viability-spd.pdf>

Accordingly, this Council, which is committed to increasing the delivery of affordable housing, requests that the Cabinet commissions the development of a new Development Viability Supplementary Planning Document to:

1. require any planning application which does not meet the affordable housing requirement to submit an Economic Viability Assessment which must be fully public and will be published online alongside the other planning application documentation.
2. require such Economic Viability Assessments to be in a standard proforma to aid understanding and comparison by members of the planning committee and the public.
3. consider offering a 'fast-track' planning service to applications which deliver 40%, or more, affordable housing, as identified in the Wirral Strategic Housing Market Assessment and Housing needs Study (May 2016) to incentivise this behaviour by developers.
4. consider 'clawback' mechanisms where large applications cannot comply with the affordable housing thresholds, to ensure that any subsequent improvement in viability is accompanied by an appropriate increase in the affordable housing provision.

The Development Viability Supplementary Planning Document (SPD) would enable these factors to become a material consideration for the Planning Committee dependent on the circumstances of individual applications”.

In accordance with Standing Order 7(6), Councillor Kelly had been invited to attend the meeting in order for him to be given an opportunity to explain the Motion.

Councillor Kelly advised that the housing charity Shelter had issued a report on the use of Economic Viability Assessments (EVAs) by developers to avoid provision of affordable housing within developments and that he had also been made aware of companies who specialised in producing such

assessments for developers. Further research indicated that some Councils now required EVAs to be made public. Noting the Plan timetable submitted elsewhere on the agenda for this meeting, it was suggested there was now time for the Committee to consider the issue.

Councillor Kelly made further reference to the Strategic Housing Market Assessment which while recommending that 40% of new housing should be affordable had recognised that viability made this a challenging figure. He further noted that the Council already recognises viability issues and sought provision of 10% within areas of greatest need and 20% outside areas of greatest need. Given that viability was already being addressed, it was suggested to the Committee that Officers be asked to look at the approaches of identified Councils in respect of EVAs.

Members acknowledged that while the Council could do better in this area, there was insufficient information available at the meeting and that inputs from Officers were required. It was noted that as issues might arise around competitiveness with other areas for development, and that viability had the potential to prevent schemes, any policy considered needed to have some flexibility. The need for affordable housing within the Borough was stressed by Members, and the view expressed that developers should not be shirking their responsibilities in this regard.

Officers confirmed that affordable housing provision was contained within the Local Plan, but the legal issues around confidentiality of information within EVAs required more detailed consideration. In response to a query, it was advised that the publication of EVAs was not currently set out as a requirement of developers/applicants at this time, but could be included in a future Local Plan. The Council's current approach was to refer EVAs for independent assessment, the results only of such assessments being reported to Planning Committee. A Member requested that a statement indicating whether or not an EVA had been made on any application submitted to the Planning Committee be included in the Officer's report.

Councillor Foulkes left the room on the raising of an issue related to a particular development during the debate while that issue was considered by the Committee, returning for the remainder of the debate.

In discussion, Members of the Committee considered that further information, including detail on the approach of other local authorities referred to in Councillor Kelly's presentation and confirmation of the associated legal issues was required and, on the Motion of Councillor Carubia, seconded by Councillor Sykes, it was –

**RESOLVED: That**

- (1) the Notice of Motion be referred to a Task and Finish Group for consideration of further information; and**
- (2) the item be included in the Committee Work Programme and be discussed further by the Chair and Spokespersons.**

45 **CLIMATE CHANGE ANNUAL REPORT AND ACTION PLAN 2017**

The Strategic Commissioner for Environment provided a report presenting the annual update on climate change action in Wirral. Wirral Council is a signatory to the Local Government Association's 'Climate Local' initiative and is duly committed to identify actions on climate change and to the public reporting of progress with respect to such actions. The Cabinet had requested that annual reports be made on climate change.

The report and a supporting presentation made to the Committee introduced and provided updates on –

- the function and activities of the Wirral Climate Change Group;
- the latest 'Cool Steps' report detailing recent progress of the Council endorsed Climate Change Strategy 2014-19;
- the most recent version of the 'rolling' action plan developed to help implement the Strategy; and
- an overview of progress made over the first three years of the five year strategy period.

Members thanked Officers for a thorough and interesting presentation, making comments and seeking clarification on a number of issues raised.

In response to a query as to linkage between 'Better Food Wirral' referenced in the report, and the Eat Well Wirral initiative, it was advised that Better Food Wirral sought to build networks around food producers and others with an interest in food and to promote local businesses. Reference was made to the activities targeted at reducing meat consumption, and initiatives such as 'meat free Mondays' were suggested; Officers indicated that this would be referred to Public Health colleagues. A Member suggested that people were pressured through advertising to use supermarkets, though these shops tended to use more excessive packaging than local suppliers. Members were reminded that a report on single use plastic policy, which might pick up this issue alongside fill up water bottle provision and related infrastructure, was due for submission to the next meeting of the Committee.

Members noted the success of the eco-schools in the Borough, including increased recycling, and queried whether work was being undertaken with parents, for example in reducing packaging in packed lunches, and travel to school. It was acknowledged that influencing parents through school activity was important, particularly around walking to school.

Members noted the need to get more done on recycling, particularly as this was an area of council responsibility. Officers noted that recycling performance was plateauing and acknowledged more work needed to be done in this area.

Progress within the strategy action plan was noted and welcomed by Members, but given the passing of time it was suggested that big actions were now needed. It was suggested that all major decisions should have climate change issues as a consideration, for example considering the 'green' credentials of any contractor. A Member referenced the experience of a local organisation moving to the local supply of fresh food as one which had several positive benefits.

A Member suggested that the number of initiatives linked to climate change might risk the core message of the need to reduce carbon emissions arising from use of fossil fuels for energy and transport getting lost. It was suggested that many people did not want to change their lifestyle radically, but did want to make a contribution to combat climate change. In this regard there might be a benefit in developing a 'five things we could all do' message or campaign.

A concern was expressed at talk of energy companies reducing their funding for energy conservation measures but who were promoting smart meters, the benefits of which needed better explaining. It was also considered that such meters appeared to be the 'in thing', as had been the case with diesel cars. Officers noted that things changed, that initiatives often had pros and cons and needed consideration on balance, and that there was need to continue to learn and develop.

Recent changes in lifestyle were commented on, and it was queried whether any assessment had been made on the climate implications of people making purchases on line which then required home delivery.

Members again welcomed and supported the report and, on the Motion of the Chair and seconded by Councillor Muspratt, it was -

**RESOLVED: That**

- (1) the work of the Wirral Climate Change Group and the progress outlined in the submitted report to implement the Climate Change Strategy be noted; and**
- (2) it be recommended to the Cabinet Member that the 'Cool Steps' annual progress report (Appendix 1 to the submitted report) and the latest version of the Wirral Climate Strategy Action Plan (Appendix 2 to the submitted report) be formally endorsed and used to meet the Council's Climate Local commitment.**

**WIRRAL LOCAL PLAN - REPORT OF PROGRESS SINCE 2004**

Further to Minute 40(2) of the meeting of the Committee held on 7 December 2017, the Committee received a report of the Assistant Director Environmental Services setting out further detail about previous progress on the Local Plan, including the reasons that had been published in previous Local Development Schemes and Annual Monitoring Reports. The report further provided an update on current progress and a revised timetable for the Core Strategy, to be included in the new 2018 Local Development Scheme, was set out in Appendix 3 to the submitted report.

Further to the submitted report, the Committee was advised that the Leader of the Council had earlier in the day signed a letter in response to the letter of the Secretary of State dated 16 November 2017. Key points within the letter of the Leader of the Council -

- set out the current position of the Council with regard to preparation of a Local Plan;
- considered the planning history on housing development, with performance figures included;
- noted that there were now more new homes on site under construction than in previous years;
- noted that a timescale to develop the Plan had been agreed in June 2017 and published on the Council's website, and that a revised Local Development Scheme would be submitted to Council in March 2018 for formal adoption; and
- explained the key steps needed to reach the next key stages.

A Member expressed the hope that the response provided would satisfy the Secretary of State that intervention would not be required. In response to comments, Officers noted that the Leader's response sought to respond to the Secretary of State's letter by presenting the circumstances leading to delay and the measures now being taken. It was noted that it was now the responsibility of this Committee, through receipt of regular monitoring reports as a standing item on the Committee agenda, to ensure that timescales were adhered to.

In response to a Member's query concerning staffing resources, the Committee was advised that it was considered the planning service should have sufficient resources to deal with the volume of work, noting that the Government's increase of planning fees was premised on the re-investment of fee income, which could include staffing, in the planning service.

*Note: Further to the meeting, copies of the response to the Secretary of State and supporting documentation, as circulated to the committee, have been appended to the Council website:*

<http://democracy.wirral.gov.uk/ieListDocuments.aspx?CId=759&MId=6058>

**RESOLVED:**

**That the report be noted.**

47 **NOTICE OF MOTION 'PLANNING AHEAD TO USE THE COMMUNITY INFRASTRUCTURE LEVY'**

At the meeting of the Council held on 11 December 2017 (minute 100 refers) the following Notice of Motion, 'Planning Ahead to use the Community Infrastructure Levy', proposed by Councillor Phil Gilchrist and seconded by Councillor Stuart Kelly was referred by the Civic Mayor to the Environment Overview and Scrutiny Committee for consideration –

**Planning Ahead to use the Community Infrastructure Levy**

"Council recognises that the Cabinet last considered the use of the Community Infrastructure Levy (CIL) at its meeting on 15 January 2015 (Minute 131 refers).

<http://democracy.wirral.gov.uk/documents/s50022901/Community%20Infrastructure%20Levy%20Update%20Report.pdf>

At that time, it was reported that...

*'The Council's Core Strategy Local Plan is now at an advanced stage in preparation. A revised Proposed Submission Draft Core Strategy is expected to be presented to the Council for approval for publication and public examination in July 2015.'*

Since that study, it is worth noting that

- (a) Knowsley Council adopted a Supplementary Planning Document on developer contributions in June 2016.
- (b) Cheshire West and Chester Council adopted a full scheme in July 2017.
- (c) Sefton set out a draft charging schedule for consultation in September 2017.

Council appreciates that developer contributions can be secured by the planning system through on-site provision and design, site-specific planning obligations and the Community Infrastructure Levy. Given the extent of the Budget Gap it is essential that these means are explored.

Council is also aware that documentation released at the time of the most recent Budget has laid out the Government's intention to set about speeding up the process of setting and revising CIL to make it easier to respond to changes to the market. Apparently, this will include...



*‘allowing a more proportionate approach than the requirement for two stages of consultation and providing greater clarity on the appropriate evidence base’.*

Council believes that, whatever the outcome of the intervention by Sajid Javid (Secretary of State for Communities and Local Government) on 16 November, this Council now needs to make greater progress in assessing how the use of the Community Infrastructure Levy can raise resources to assist in the provision of local facilities and services.

Accordingly, it requests that the Cabinet allocates sufficient resources to speed up the local plan making process, the use of developer contributions and examination of the use of the Community Infrastructure Levy”.

In accordance with Standing Order 7(6), Councillor Gilchrist had been invited to attend the meeting in order for him to be given an opportunity to explain the Motion.

Councillor Gilchrist advised the Committee he felt better informed following consideration of the previous item (Wirral Local Plan – Report of Progress Since 2004), having submitted his Motion around the time of receipt of the Secretary of State’s letter. He was hopeful that the timetable would allow for identification of sites, and felt reassured in respect of staffing resources.

Councillor Gilchrist acknowledged that the Community Infrastructure Levy (CIL) process was not an easy one, but noted the significant resources achieved or anticipated by some local authorities who had pursued the CIL and suggested amounts that might have accrued to this Council from two recent large scale developments had a CIL been in place here. He noted that the Council’s report from 2015 had indicated that a CIL was unlikely to put development in the Borough at risk. He noted that in December the Government had indicated speeding up of the CIL process, referred to documentation produced by Knowsley Council, and asked the Committee to consider how the Council might proceed in the future.

A Member commented that developers were not rushing to the Borough and queried whether there would be any benefit, suggesting that the CIL would be more useful for areas with a lot of development demand. Further comment was made that this item was of a similar nature to the earlier consideration by the Committee of the Motion on Economic Viability Assessments, insofar as both issues placed a demand on developers. The Council, it was suggested, did need to consider such options given the need to identify alternate income when the Revenue Support Grant was ceased and that this particular proposal could be progressed with other matters related to the Local Plan.

On the Motion of Councillor Carubia and seconded by Councillor Muspratt it was –

**RESOLVED: That the Notice of Motion be referred for consideration to the Task and Finish Group established to consider Economic Viability Assessments.**

48 **2018/19 BUDGET SCRUTINY REPORT**

A report from the Chair presented the work of Environment Overview and Scrutiny Committee in relation to the scrutinising of budget proposals for 2018/19. A workshop had been held on 10 January for Members to explore in more detail the various budget proposals being put forward that fell under the remit of this Committee and a report on the workshop considerations was included as an appendix to the submitted report.

Further to paragraph 10 of the appended workshop report and the request for additional information to be provided, it was confirmed that further information requested had been forwarded to Members of the Committee.

**RESOLVED: That**

- (1) the submitted report on the workshop considerations of budget proposals under the remit of the Environment Overview and Scrutiny Committee be agreed as the response of the Committee to the 2018/19 budget proposals; and**
- (2) the report be referred to Cabinet as part of its considerations in developing any budget recommendation to Council.**

49 **ENVIRONMENT OVERVIEW & SCRUTINY COMMITTEE - WORK PROGRAMME UPDATE**

The Chair provided a report which explained the process of developing and managing the scrutiny work programme for the Municipal Year. The Environment Overview and Scrutiny Committee, in cooperation with the other three Overview and Scrutiny Committees, was responsible for proposing and delivering an annual work programme which should align with the corporate priorities of the Council, in particular the delivery of Wirral Plan pledges relevant to the work of the Committee.

The work programme was formed from a combination of scrutiny reviews, standing items on committee agenda and reports requested from Officers. The report provided the Committee with an opportunity to plan and regularly review its work across the Municipal Year.

Further to the submitted report, the following amendments to the attached work programme were considered:

- the need to include the agreed Task and Finish Group to consider Economic Viability Assessments and the Community Infrastructure Levy, with a consideration to be given to one or two members of the Planning Committee joining the Group;
- comments of Members that the suggested date of March 2018 for submission of a final report from the Modern Slavery Scrutiny Review (paragraph 3.4 to the submitted report refers) was not realistic, and that the Group needed to re-convene to clarify the current position and consider where to go next; and
- Officers indicated that they would report to the next meeting of the Committee in March 2018 in respect of the Notice of Motion on the use of Single Use Plastics (paragraph 3.4 to the submitted report refers).

**RESOLVED:**

**That, subject to amendments as indicated within the preamble to this Minute relating to a Task and Finish Group to consider Economic Viability Assessments and the Community Infrastructure Levy, the Modern Slavery Scrutiny Review, and the progression of the Notice of Motion on the use of Single Use Plastics, the submitted Environment Overview and Scrutiny Committee Work Programme for 2017/18, be approved.**