

## Review Committee – 5 November 2019

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Minutes of the meeting of the **Review Committee** held on **5 November 2019** when there were present:-

Chairman: Cllr J C Burton  
Vice-Chairman: Cllr D J Sperring

Cllr Mrs D L Belton  
Cllr C C Cannell  
Cllr T G Cutmore  
Cllr Mrs J R Gooding  
Cllr B T Hazlewood  
Cllr Mrs D Hoy

Cllr M Hoy  
Cllr Mrs C M Mason  
Cllr Mrs J E McPherson  
Cllr R Milne  
Cllr Mrs C A Pavelin  
Cllr P J Shaw

### **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Cllr Mrs L Shaw

### **OFFICERS PRESENT**

M Hotten - Assistant Director, Place & Environment  
P Gowers - Overview & Scrutiny Officer  
M Power - Democratic Services Officer

### **200 MINUTES**

The Minutes of the meeting held on 8 October 2019 were agreed as a correct record and signed by the Chairman.

### **201 DECLARATIONS OF INTEREST**

Cllrs Mrs C M Mason declared a non-pecuniary interest in Item 6 of the Agenda 'Grass Cutting and Management of Open Spaces in New Developments' by virtue of being a director of a residents' management company. Cllr M Hoy also declared a non-pecuniary interest in Item 6 of the Agenda by virtue of acting as company secretary for a management company.

### **202 GRASS CUTTING AND MANAGEMENT OF OPEN SPACES IN NEW DEVELOPMENTS**

The Committee considered the report of the Assistant Director Place & Environment, which provided information on the concerns and possible solutions to the issues around the management of public open spaces in new developments by private management companies.

A Member felt that the report did not address the full extent of the problems experienced by residents in new build developments. In respect of affordable housing, Housing Associations maintain the public open spaces in the 35% of affordable housing within a new development; the managing company will maintain the remainder. This means thatn some of the most vulnerable

residents are exposed to charge increases in perpetuity as, although the affordable housing properties have rents capped at 80% of the market rent, management charges are not capped. The cost to the householder for grounds maintenance can be in the region of £100 per annum per property; on top of this there are payments for street lighting, road repairs and surface water drainage systems; Rochford District Council manages just the adopted verges. There is no cap on these management charges and, as new build estates get older, so can the level of charging increase. Residents in these developments are paying management charges in addition to their Council Tax liability.

In response to questions, the following was noted:-

- The green space in new developments is maintained at a cost to the householders for the benefit of the whole of the District.
- The property developer is responsible for the maintenance of roads until they are adopted; roads that are not adopted remain under the responsibility of the management company.
- The Council has very limited powers of enforcement in cases where a management company does not comply with the provisions of a Section 106 legal agreement to maintain and manage a site.
- Owners experiencing problems would be advised by the Council to refer to the contract they have with the management company and, if necessary, seek independent legal advice; the Council could not give legal advice.

Members felt that a review should be undertaken of how the authority could provide guidance and assistance to individual householders in new developments as, currently, residents had no control over the management costs relating to their property. It was suggested that a policy could be drawn up to outline how the Council could provide guidance when approached by residents when they had concerns regarding their involvement with a management company. Assistance could include a basic information pack detailing the process to be followed when an issue occurred, a list of Frequently Asked Questions and signposting to the appropriate route to take.

The Assistant Director, Place & Environment advised that there had been very few complaints from residents to the Council about property management costs. He added that legal advice would have to be included as part of the proposed review as there would be a need to establish what advice and guidance the Council could provide to residents. The Council would thus avoid being liable for claims of misrepresentation or providing incorrect advice.

Members recognised that grass cutting is the responsibility of the management company; however, it was felt that as new developments form part of the Council's planning core strategy, the responsibilities of the Council

in respect of grass cutting management should be established as developments progress through the planning process.

Members felt that as new developments had created a significant increase in the amount of public open space in the District as a result of the Core Strategy, there should be a greater involvement by the Council in maintaining the space. Although there had been very few complaints to the Council, it was felt that this might change with the number of new developments coming through.

Cllr Mrs C M Mason moved that a working group be set up to look at establishing a policy to cover how the Council can help residents of new estates going forward and, if possible, retrospectively in respect of existing estates. Cllr M Hoy seconded the motion.

The Assistant Director stated that a managing agent would usually have liability insurance to cover both the open and play spaces within a development; the Council had not the authority to insist on seeing a copy of this insurance documentation. Each parcel of land would have a covenant on it relating to the responsibility for management of the land; therefore, the Council would not be involved in taking on the responsibility in the event the company ceased to trade. In the event of a managing agent becoming insolvent the Council would consider adding the maintenance of green spaces into the existing grass cutting regime.

It was suggested that residents with legal queries could be directed to Citizens Advice.

### **Resolved**

- (1) That the content of the report be noted.
- (2) That a working group be formed to look at how the Council can provide householders in both new and existing housing developments with assistance when dealing with issues in their relationship with management companies and managing agents and to investigate whether a policy can be drawn up to provide guidance in this respect. The members of the working group would be: Cllrs Mrs D L Belton, Mrs D Hoy, M Hoy, Mrs C M Mason, P J Shaw and D J Sperring.

## **203 KEY DECISION DOCUMENT**

Members considered the Key Decision Document and noted its contents.

## **204 WORK PLAN**

The Committee considered its work plan.

The meeting closed at 8.22 pm.

Chairman .....

Date .....

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