

# Nottingham City Council

## Overview and Scrutiny Committee

**Minutes of the meeting held remotely via Zoom and livestreamed on You Tube on 3 March 2021 from 2pm – 4.16pm**

### Membership

#### Present

Councillor Anne Peach (Chair)  
Councillor Carole McCulloch (Vice Chair)  
Councillor Gul Nawaz Khan  
Councillor Pavlos Kotsonis (left at 4.05pm)  
Councillor Jane Lakey  
Councillor AJ Matsiko  
Councillor Ethan Radford (left at 3.45pm)  
Councillor Angharad Roberts (left at 3.20pm)  
Councillor Andrew Rule

#### Absent

Councillor Georgia Power  
Councillor Steve Battlemuch  
Councillor Cate Woodward

### Colleagues, partners and others in attendance:

Fran Cropper	- Regeneration Team Leader
Eddie Curry	- Head of Public Realm Services
Graham de Max	- Housing Strategy and Partnership Manager
James Dymond	- Parks Development Manager
Matt Gregory	- Head of Planning Strategy and Building Control
Rachel Harding	- Housing Strategy Specialist
Judith Irwin	- Senior Solicitor
Mark Lowe	- Head of Housing and Regeneration
Paul Seddon	- Director of Planning and Regeneration
Councillor Dave Trimble	- Portfolio Holder for Leisure, Culture and IT
Councillor Linda Woodings	- Portfolio Holder for Housing, Planning and Heritage
Kim Pocock	- Scrutiny Officer

### 55 Apologies for absence

Councillor Steve Battlemuch (other Council business).

### 56 Declarations of interests

None.

## **57 Minutes**

The Committee confirmed the minutes of the meeting held on 3 February 2021 as an accurate record and they were signed by the Chair.

## **58 Scrutiny of the Portfolio Holder for Housing, Planning and Heritage**

Councillor Linda Woodings, Portfolio Holder for Housing, Planning and Heritage, supported by colleagues, attended the meeting to report on progress against her key priorities in the Council Plan. She highlighted the following information, focusing on Council/ Social Housing and Homelessness:

### Council or social homes for rent

- (a) Social housing refers to all official forms of social housing, while 'social housing for rent' refers to homes let by a Registered Provider or Local Authority at social rent or affordable rent.
- (b) Currently there have been 270 completions towards the target of 1,000 by 2022/23. The programme is back weighted, but HRA (Housing Revenue Account) constraints have imposed limits to new build and purchases. As a result, the expected out turn for 2022/23 is now approximately 800.
- (c) In terms of direct Council new build, progress is as follows:
  - i. Complete: 44 new independent living flats at Winwood, 20 houses at Clifton Miners Welfare, 13 new houses at Marlstones, 20 houses and flats at Knights Close.
  - ii. On site now: 13 homes at Tunstall Drive, 106 houses and flats at the former Eastglade school site, 1 bungalow.
  - iii. Expected to deliver by March 22/23: 8 flats from conversion of offices at Woodlands, 36 flats on the former Southchurch garage site, 107 (out of a total of 131 homes) at Beckhampton Road should also be completed.
- (d) In terms of additional new homes, progress is as follows:
  - i. Procured schemes: 80 of 108 Council homes to be built at Padstow/ Ridgeway should be complete.
  - ii. 6 flats over shops have been converted for affordable residential use.
  - iii. Market Purchases: The Council has purchased 137 properties for use as general needs affordable housing and expects to complete up to 160 in total.
  - iv. Section 106 acquisitions: The Council has purchased 8 social rented homes via the Section 106 agreement at the Sandfield Centre development and is buying 7 more at Woodyard Lane and Nottingham City Homes has purchased 14 Section 106 units from the Martin's Reach development.
- (e) There are a number of registered provider partner schemes in development or planned, which will deliver social housing for rent including:

- i. 28 new homes by Tuntum at Woodborough Road, St Anns (former Woodborough Inn site).
- ii. 18 new affordable rent homes by Nottingham Community Housing Association (NCHA) at Morley Avenue (plus 16 intermediate affordable housing homes that are not counted).
- iii. 34 new affordable rent homes by NCHA at College Way, Bilborough, (plus 24 shared ownership homes, not counted).
- iv. Up to 57 homes developed or acquired by Platform Housing on various sites
- v. Other schemes in train not yet in public domain.

The Portfolio Holder and colleagues are meeting with all major stock holding Registered Providers to facilitate further development in the city.

### Homelessness

- (f) Homelessness levels are currently being well managed, which can be evidenced by no use of B&B (bed and breakfast) as temporary accommodation for families, due to low demand, and because the private provider nightly paid temporary accommodation is now under lease/ licence arrangements and is covered by Housing Benefit. However, existing temporary accommodation is full (approximately 350 units) and Housing Aid Officers still carry high caseloads.
- (g) Demand by families has reduced due to Covid 19 restrictions, ie the ban on eviction in the private rented sector, and there have been fewer families who are staying with family/ friends being asked to leave during lockdown. However, at the same time, there has been an increase in the number of domestic violence cases and more individuals are presenting as homeless.
- (h) While fewer people are going into temporary accommodation, there has been no increase in people moving out as this has slowed during the pandemic. In addition, Housing Aid is restructuring and does not have capacity to do more than respond to crisis cases. There are prevention plans, but these have not been fully implemented due to Covid.
- (i) Future procurement is likely to be challenging in the light of limitations due to acquisitions and the Airbnb market, as well as the consequence of easing Covid restrictions. It is anticipated that when government financial support for employment/ business ends, unemployment will rise. In addition, the eviction plan will be lifted. This is likely to mean a return to previous levels of demand, including the impact of pent up pressures from experiences during the last year.
- (j) Three year projections have indicated that more people will need temporary accommodation than will be moving out of it and that without enough temporary accommodation to meet demand, there will be a need to rely on nightly paid temporary accommodation from private providers. If no action was taken it would be likely that by the end of 2021/22 there may be over 100 families in B&B. Prevention activity would impact on this significantly and result in financial savings.
- (k) In order to achieve this the Council needs to prevent people from reaching homelessness and needing temporary accommodation; support people to move from their old home to a new home if their housing can't be saved; work

intensively with those who need temporary accommodation to minimise the time spent there; and increase the temporary accommodation available.

- (l) To this end the Housing Aid restructure needs to be completed to deliver the extra capacity and additional services so that the existing extensive workplan can be implemented. Investing the appropriate level of resources into prevention has been seen to produce positive results in the past and prevention must be recognised as a necessary core activity within Nottingham City Council. The Council is not alone in this position and is taking learning from elsewhere.
- (m) The Portfolio Holder has been meeting with all registered providers over the last few months. They don't have problems funding, but they do need land to build on. If the Council is not to build itself, then facilitating other partners to build is part of the solution. Traditionally funding for registered providers has been 60% rental and 40% home ownership. Latest information suggests that funding is now going to be 50:50 for each sector.
- (n) The Council is lobbying the Government on 'right to buy'. Last year the Council lost approximately 200 properties to 'right to buy'. This is low compared with previous years (approximately 300 properties). Delays to 'right to buy' refunds to the Council are partly due to Covid and partly due to a check on borrowing. The Government has agreed to give more time for spending some of the 'right to buy' refund receipts and the Council is in discussion about extending the usual 3.75-year deadline, in order to give the time to put existing plans for schemes in place. There have also been discussions with Homes England about accessing funding as the difference between Nottingham's land prices and rent is not high enough to meet their grant criteria.
- (o) The Council is also lobbying for better rights for renters. This usually stands at 90% singles and 10% families, but families are now creeping up to 20%. It would be helpful for the Government eviction ban and stop on possession orders to continue in order to protect residents. A minimum of three-year leases as standard would put an end to short-hold tenancies and providing at least 6 months' notice to quit would enable better planning for support to tenants at risk of homelessness.
- (p) The Council is tracking the arrears of Council tenants and Nottingham does have landlords who have not evicted tenants.
- (q) No families were in B&B on Christmas morning for the third year running, which is a tribute to the housing strategy and delivery team and all of those who work on homelessness, including the voluntary sector. Inhumane homelessness experiences are damaging for children and parents, creating the need to address mental health and wellbeing, as well as being very costly.

In response to questions from the Committee and in the subsequent discussion the following points were made:

- (r) Nottingham City Homes (NCH) manages a quick turnaround to bring void properties back in to use. During Covid they have had to wait 72 hrs before starting any work, but usually they can turn round a property in four to six weeks (repairs, redecoration etc). The number of voids in the city as a whole has grown. The Council works with registered providers to bring properties up to standard to bring properties back in to use. It can offer to manage the property on behalf of the registered provider to ensure an income. Trying to keep properties let also impacts on Council Tax receipts.
- (s) Demand for housing is high and audit is rigorous to establish genuine homelessness. Approximately 100 households present to Housing Aid each week and the Council cannot house those considered to have made themselves homeless. For example, last week 13 families and 3 individuals were identified as genuinely homeless and had to be housed against the 100 households presenting.
- (t) It is estimated that there are 32,000 properties in Nottingham which should be rented but only 25,000 are licensed. The Council is looking at this profile and working to track down those landlords who are not licenced or who are illegally subletting. If NCH finds anyone who is illegally subletting, then those tenants lose their tenancies.
- (u) The Council is supposed to use its 'right to buy' replacement funds, supplemented by Section 106 or borrowing from the Housing Revenue Account (HRA), to build Council houses to maintain the availability of Council housing and revenue and to keep the HRA sustainable. The 30-year HRA business plan is currently being renewed.
- (v) Private rented housing is the largest amount of housing in the city. Only those with a housing need go on the waiting list. Policy was reviewed in spring 2019 which resulted in some people being taken off the waiting list. However, there is an ever growing demand as people want a decent landlord who will maintain their home and no risk of revenge evictions. There is never enough funding to build enough properties to catch up with the waiting list, so private rented housing has to be a feasible option.
- (w) While proposals in the recent Planning White Paper are subject to the provision of further detail and consultation, it does set a future direction of travel. It includes proposals to make significant changes to consultation on planning matters. The Government is keen to take a front-loaded approach to consultation, ie more consultation within plan making rather than within planning applications. There was concern from both Committee members and colleagues about proposals whereby developments are deemed to have planning permission if they are in the Local Plan as this would reduce the level of debate on applications. Where developments are not in Growth Zones the level of consultation and democratic input will be curtailed. More detail on the White Paper proposals is expected over the next 12-18 months and there will be further consultation.

- (x) The current 2050 carbon neutral target doesn't feel ambitious enough. Local planning policy is shaped within national planning frameworks. Development is a highly complex matter in terms of viability, who the build is for and where it is located which makes green policy somewhat complicated. The Council has good Local Plan policies in terms of sustainability and it will push the boundaries on what Nottingham can achieve in terms of sustainability within the national framework. Councillor Woodings agreed to share a paper on this with the Committee, written by the Director of Planning and Regeneration.
- (y) When building new properties, the Council does not specifically take into account the average Council Tax earned versus the cost of services. It looks at the number of people on the Council house waiting list, the number of people registering as homeless and what the biggest demand is by those on the waiting list (currently predominantly two-bed properties). Rents are kept low because of the deprivation in the city.
- (z) Evictions are tracked year on year. The Portfolio Holder has not heard that there is a particular issue at the moment whereby students are being made homeless, but agreed to raise this at a meeting she has with students on 4 March 2021. There is concern that students tolerate an unreasonable level of disrepair, eg poor wiring, security issues, mould etc.
- (aa) It was estimated that prior to the pandemic four to five people who had no recourse to public funds were provided overnight shelter each night. Covid compliant measures to address rough sleeping mean that provision has been significantly increased. The Government wants to focus on facilitating Housing First rather than emergency provision. However, there needs to be an adequate response for those who present on the night.
- (bb) Those with a lawful right to be in UK could have that right removed if found rough sleeping and/ or homeless. The Council has been approached by the Home Office for support in deportations. However, the Portfolio Holder expressed her view that this is counter-intuitive as it is her priority to provide people with safe, warm overnight shelter. If the Council was to report them to the Home Office, then they are unlikely to come forward for support and their health and lives may then be at risk.
- (cc) The Council's Homeless Prevention Grant for next year will be £1.3 million, which is a slight uplift of £200,000 from 2020/21. Funding is now combined into a single fund without the need to bid separately for several elements and covers a range of services plus the officer capacity to manage these.
- (dd) The Council also receives rough sleepers grants and there has been considerable activity as a result of grants received from the Government to house people during the pandemic. In addition, the Council is submitting a bid for £2.7 million to the Ministry of Housing, Communities and Local Government for a rough sleeper initiative grant. This would enable the replacement of the current night shelter with Covid compliant multiple units of accommodation linking with, for example, employment support, mental health support and immigration support.

- (ee) Provision to meet Covid requirements has definitely led to a rethink of what sleeping provision should look like going forward, including the provision of a psychologically supportive environment so that no one is excluded. There was a small core of individuals who didn't want to come indoors during Covid, but Opportunity Nottingham and Trent University have done a joint piece of research and have identified huge gains to the physical and mental health of many rough sleepers. The expansion of Housing First with its wrap around support has meant that some of those who have previously refused to accept a tenancy because of fears that they could not sustain it, have accepted tenancy through Housing First. The Health Service is also reviewing how to deliver services to rough sleepers, which will support the work of the Council. Providing a range of services and support alongside housing does produce positive results.
- (ff) The Council has to meet the EPC (engineering, procurement and construction) standard for contracts but there is no specific funding for sustainability apart from energy efficiency schemes. Areas called 'protected areas' in the White Paper proposals would include conservation areas and should require planning permission.
- (gg) Permitted development has been introduced under legislation to convert offices and shops to accommodation without going through the planning process. The Council has had to take on some of these properties in order to accommodate homeless people. The Portfolio Holder agreed to provide further information on whether or not there is a need for a licence to operate supported housing under this legislation.

## **59 Section 106 Agreements**

Paul Seddon, Director of Planning and Regeneration and colleagues attended the meeting to report on the Section 106 process and work being undertaken to make the process more efficient, open and transparent. He highlighted the following information:

- (a) A Section 106 Agreement is a legally enforceable document setting out obligations to mitigate the impacts of a development proposal and used for specific purposes such as:
  - i. to require an amount of affordable housing provision;
  - ii. to improve the infrastructure needed to serve the development;
  - iii. to meet adopted policy aims, eg employment and training, education;
  - iv. to compensate for the impact of development, eg loss of open space.Obligations may be provided by the developer 'in kind' by building or directly providing the matters necessary to fulfil the obligations, usually on site, or, can be met by a financial payment, or a combination of both.
- (b) Agreements are drafted with trigger points and when they are reached, the developer is liable to pay the contribution to the Council. Examples of trigger dates include signing of the agreement, one month prior to starting on site, starting on site, first occupation and/ or completion of the development.
- (c) Monies received can only be spent in accordance with the terms set out in the agreement, adhering to the legal principle of mitigating the impacts from the

development proposal. Planning permissions can take several years to reach completion or be amended/ superseded and therefore not all agreements are realised in full or at all if development does not take place.

- (d) In order to decide if a development proposal requires a Section 106 Agreement, mandatory legal tests have to be met and demonstrate that the agreement is:
  - i. necessary to make the development acceptable in planning terms;
  - ii. directly related to the development; and
  - iii. fairly and reasonably related in scale and kind to the development.
- (e) Nottingham City Council's Local Plan and Supplementary Planning Documents cover the following:
  - i. affordable housing provision;
  - ii. education;
  - iii. open space/ parks;
  - iv. employment and training; and
  - v. improved infrastructure needed to serve the development.
- (f) The process for determining the type and amount of Section 106 obligations is always on a case by case basis, taking into account size and type of development, location, the impact the development will have and the mitigation required to address those impacts. Planning Officers negotiate for the full Section 106 obligations required. Negotiations have to seek to balance the viable delivery of positive development and investment in the city with the level of obligations. Where officers propose approving a development without requiring a Section 106 agreement, the application is always referred to the Planning Committee for decision.
- (g) The monitoring and managing of Section 106 obligations can be complex and time consuming. Trigger points have to be reached before contributions are due – developers are required to inform the Council when these triggers have been met. An audit review was carried out in 2019 suggesting improvements to the Section 106 process and current work streams to improve processes include managing the backlog of agreements, making improvements to monitoring, reviewing monitoring charges, developing a Section 106 calculator and meeting the requirement to publish an Infrastructure Funding Statement.
- (h) There is a specific process for Section 106 Agreements which relate to open spaces. Area Committees agree the priorities for investment on a ward by ward basis. If a development proposal is put forward which would fit with the area investment priorities, there is informal discussion with Planning colleagues. Once the funding is triggered, then further discussions take place with the Area Committee, Neighbourhood Development Officers and local councillors. This leads to a formal Area Committee endorsement of the proposals for funding allocation and the Portfolio Holder approves the allocation under delegated authority. This is usually done on an annual basis to make the process manageable. Section 106 can be the catalyst for bringing in funding from other sources as matched contributions.
- (i) Examples of recent open space projects include £21k Section 106 used to match other funding for the play area, gym and café works in Woodthorpe Park; £25k



Section 106 is being used to lever in matched funding for park improvement works at Amesbury Circus; £13k Section 106 is being used to lever in matched funding for Coppice Park improvements; and £93k Section 106 is being used as matched funding for a £1.8 million Lottery-funded restoration project at the Victoria Embankment Memorial.

In response to questions from the Committee and in the subsequent discussion the following points were made:

- (j) Section 106 can't be used for revenue support and ongoing maintenance. It is intended for one-off developments. For example, where it is used to support schools it will usually be for building expansion.
- (k) While the detail of proposed planning changes in the Planning White Paper is absent at the moment, the Portfolio Holder and colleagues have been looking at whether a levy approach would be viable in place of Section 106 on individual developments. Their concern is that, because local areas are complicated, a national infrastructure levy would not address the city's challenging local viability and low value. It may be that even with a low level national infrastructure levy, some local Section 106 will still be allowed, but until the detail is available this is unknown. If the levy approach replaces Section 106 there would be no need for viable assessment as it currently operates, but there would have to be an evidence base to ensure that schemes are viable.
- (l) It is only the open space Section 106 contributions which have the specific local involvement process described in the presentation, as there is a degree of flexibility on the spend. All other agreements built into planning applications are site specific for each project, with the exception of affordable housing, which goes through a different process.
- (m) Potential changes to the Council's Area Committee structure would mean that other ways of ensuring local involvement in how Section 106 is used for open spaces would need to be developed. Section 106 has been a key player in the development of the city's major parks over many years and matched with a host of partners including the Lottery, Police Commissioner, health and sports organisations. It leads to significant investment and value added to local areas, contributing to the health and welfare of citizens. This has been critically important during Covid and the heavy use of open space will need future investment to manage the impact of that heavy use.
- (n) In response to concerns that Section 106 schemes are not delivering as many apprenticeships as they could, the Director of Planning and Regeneration agreed he would forward information on the exact number of young people who have been employed as apprentices through Section 106 and that it would be possible to consider the potential for being more ambitious and expanding apprenticeships under Section 106 for the future.
- (o) It is rare that contributions due from Section 106 agreements are not paid by the developer. There are some historic agreements where, for example, developers have gone bust, but this is not specific to Nottingham. The majority of agreements are for residential schemes. Where the developer goes bust, the Council could try to recover those monies from homeowners; however, this is not considered a palatable route to go down. Trigger dates are built in to agreements, risks identified and

cashflow considered with payments front-loaded. Colleagues continuously monitor monies that are owing. There is now an efficient process in place and this task is explicit in the role of two colleagues. Historic debt is still chased and the vast majority has been successfully recovered. The requirement to publish an Infrastructure Funding Statement will give much greater transparency on this. The Director of Planning and Regeneration agreed to provide the Committee with further information detailing Section 106 monies owing.

The Chair thanked the Portfolio Holder and colleagues for attending the meeting and noted that the Committee may consider further investigation of specific areas of Section 106 and/ or other aspects of planning and the developing White Paper as part of its Work Programme 2021/22.

**RESOLVED to recommend that the Portfolio Holder for Housing, Planning and Heritage consider the potential for being more ambitious and expanding the provision of apprenticeships under future Section 106 Agreements.**

## **60 Work Programme**

The Committee considered its work programme for the final meeting in 2020/21 and agreed the following:

### 7 April 2021

- Update on the Action Plans in response to the Report in the Public Interest on Nottingham City Council's governance arrangements for Robin Hood Energy and the Non-Statutory Review
- Covid-19 Pandemic – Update on the Impact on Nottingham City Council and the Council's Response focusing on service closure and reinstatement
- Scrutiny of the Portfolio Holder for Leisure, Culture and IT – Councillor Dave Trimble

The Committee will discuss potential topics for its work programme for 2021/22 at an informal meeting prior to agreeing it at the meeting to be held on 7 April. Ideas for topics should be forwarded to the Chair of the Committee or to the Scrutiny Officer.

The Committee also considered a briefing update on the Council's weeding programme, provided by the Portfolio Holder for Communities, Highways and Strategic Transport. While providing information about plans to resume street scene activity following delays caused by Covid, the briefing did not address whether the most efficient use was made of resources, including vehicles and staff, during the pandemic and whether streets could have been maintained to a higher standard than they have been. The longer term issues regarding the split of responsibilities between residents and the Council, for example in relation to weed clearing and the wider issue of how the public realm is kept in good order will be raised as potential areas for scrutiny when drafting the Committee's work programme for 2021/22.