

Cabinet

Excerpt of the minutes of the meeting held on Wednesday 10 July 2024 in Shire Hall, Warwick at 6.00pm.

Present: Councillors Davison (Leader), Billiald, Chilvers, J Harrison, King, Roberts, Sinnott, and Williams.

Also Present: Councillors: Day (Conservative Group Observer), Boad (Liberal Democrat Group Observer) and Falp (Whitnash Residents Association Group Observer).

157. **Apologies for Absence**

Apologies for absence were received from Councillor Wightman.

158. **Declarations of Interest**

There were no declarations of interest.

159. **Minutes**

The minutes of the meetings held on 10 April 2024, 15 May 2024 and 5 June 2024 were taken as read and signed by the Chair as a correct record.

Part 1

(Items upon which a decision by the Council was required)

162. **Low Cost, Low Carbon Energy Programme**

The Cabinet considered a report from the Programme Director for Climate Change. In November 2023, a new Corporate Strategy was approved by Council. Within this Strategy, there were three Strategic Priorities, the second being 'Low Cost, Low Carbon Energy across the District'. Since the approval of the Corporate Strategy, a Low Cost, Low Carbon Energy Strategy had been developed, supported by a Programme Plan to bring forward the proposals under this strategic priority. The report sought approval for the Strategy.

The Strategic Priority 'Low Cost, Low, Carbon Energy across the District' had Strategic Goals that spanned multiple Portfolios and service areas, including but not strictly limited to:

- Climate Change;
- Housing, Health and Communities;
- Neighbourhood and Assets; and
- Place, Arts and Economy (mainly related to Planning Policy).

A Programme Board had been established to oversee the delivery of the Programme. The Programme Board was made up of the following members, with support from officers in the relevant service areas:

- Programme Director for Climate Change.
- Head of Housing, Health and Communities.

- Head of Neighbourhood and Assets.
- Portfolio Holder for Climate Change.
- Portfolio Holder for Housing and Assets.
- Leader of the Council and Portfolio Holder for Strategic Leadership.

The Strategy provided the framework for the Programme and would be a reference point for the Board to enable the programme to keep on track. There were five Strategic Goals as set out under Strategic Priority 2 (Low Cost, Low Carbon Energy across the District) in the Corporate Strategy. These were as follows:

- Reduce energy consumption and carbon emissions from the Council's public buildings.
- Reduce energy consumption and carbon emissions from the existing Council Housing.
- Provide homes which were safe and meet the Decent Homes standard for all tenants including improving the energy efficiency of their homes.
- Ensure new housing developments led by the Council were exemplars of planning and construction to meet the climate emergency and other challenges.
- Explore multiple, innovative approaches to make it easier for others in the District [to reduce carbon and energy costs in buildings].

Buildings were understood to be a major source of carbon emissions at the time the climate emergency was declared in 2019. Subsequently, the Climate Emergency Action Plan (CEAP) and the various iterations of the Climate Change Action Plan (CCAP) which followed the CEAP, include aspirations and actions relating to energy use and carbon emissions in buildings. The CCAP also included a range of measures and a funding strategy to support the delivery of the CCAP actions.

Addressing Low Cost, Low Carbon Energy was therefore not new for the Council and there was a pre-existing framework to draw on in preparation for the next stages of work in this area. However, the 2023 Corporate Strategy gave specific priority to this area, including cost and it was therefore proposed that the various threads from previous work (as well as the 2023 Corporate Strategy priorities), were brought together to provide a clear strategy and a reference point for the delivery and governance of Low Cost, Low Carbon Energy projects. The report, and in particular the strategy document, set out at Appendix 1 to the report, sought to bring together those pre-existing elements into a single place. In doing so, as far as possible, the Council had sought to avoid developing a new set of outcomes, benefits and measures, as these were already defined.

To deliver progress against the Strategy, a Low Cost, Low Carbon Programme Board had been established. To date, this had met four times and had developed a Low Cost, Low Carbon Energy Programme Plan. It was the responsibility of the Programme Board to oversee progress by defining, delivering and updating this Programme Plan, as well as ensuring the right resources and partnerships were in place. The Terms of Reference for the Programme Board were set out in Appendix 2 to the report and the Cabinet was asked to endorse these. The Programme Board would draw on advice from the Low Cost, Low Carbon (or Climate

Change) Members Advisory Group which had been established and was made up of one member from each political group.

In addition, a Programme Plan had been designed to address the five Corporate Strategic Goals listed above, with a sixth area relating to projects that covered energy supply and cross cutting elements. The Programme Board would use the Programme Plan to ensure focus was maintained on the aims and benefits set out in the LCLC Energy Strategy. The priority workstreams for year 1 set out in paragraph 1.13 in the report would be incorporated within year 1 of the Programme Plan, although in all cases these workstreams would span several years.

The Programme Plan sought to balance the need to deliver progress quickly where possible, against the need for careful research and feasibility work to ensure money was spent effectively on projects that were inevitably complex. The Programme Plan would therefore include live projects (such as the existing home energy support, green homes grants and asset decarbonisation work) as well as feasibility projects. Given the cutting-edge nature of some of the proposed projects, pilots would be considered to enable real-world learning to take place. Ensuring that time and capacity was made available to explore options and bring forward well thought-through businesses cases was important if the ambitions for low cost, low carbon energy were to be realised.

Individual projects that were deemed to be a key decision for the Council would continue to go through the appropriate Committee reporting process as usual.

As set out in recommendation 3, the Programme Plan would incorporate work to commence and progress the following priority projects during 2024/25:

Corporate Strategy Strategic Goal 1 - Reduce energy consumption and carbon emissions from the Council's public buildings:

Priority Action (a)- utilising the Renewable Energy Generation Reserve and other funding sources to deliver rooftop solar / low energy lighting in key WDC assets, alongside other decarbonisation works for WDC assets with the greatest potential to benefit from decarbonisation measures. As part of this the Council sought to develop proposals for assets such as the Glasshouse Restaurant and Temperate House; the Pump Rooms; Jubilee House; and the leisure centres.

Corporate Strategy Strategic Goal 2 - Reduce energy consumption and carbon emissions from the existing Council Housing.

Priority Action (b)- utilising funding set aside in the HRA and other sources of funding, establish and agree a decarbonisation and energy reduction programme for the WDC housing stock enable WDC housing to achieve EPC C (or beyond) by 2030

Corporate Strategy Strategic Goal 3 - Provide homes which were safe and met the Decent Homes standard for all tenants including improving the energy efficiency of their homes.

The Programme Board recognised the importance of this element of the Corporate Strategy in achieving the outcomes of the Low Cost, Low Carbon Energy Strategy. However, it had also recognised that the scope of the Decent Homes Standard was much greater than low cost, low carbon energy, and that therefore actions directly linked to this Goal should have been managed by the Housing Service in conjunction with the Housing Portfolio Holder.

Corporate Strategy Strategic Goal 4 - Ensure new housing developments led by the Council were exemplars of planning and construction to meet the climate emergency and other challenges.

Priority Action (c) – bring forward proposals to deliver high quality, net zero carbon (as defined at para 2.4(D) in the Strategy at Appendix 1 to the report) affordable housing on the Council owned sites.

Corporate Strategy Strategic Goal 5 - Explore multiple, innovative approaches to make it easier for others in the District [to reduce carbon and energy costs in buildings].

Priority Action (d) – undertake a feasibility study and pilot to establish proposals to enable householders and businesses to reduce carbon emissions and energy costs. This would involve designing and piloting a scheme to deliver retrofit at scale across a range of housing tenures and other buildings, with different levels on offer to different sectors, whilst recognising the different challenges faced by householders with different incomes. The scheme would be designed to take careful account of the barriers (not just funding barriers) that householders and building owners face in retrofitting.

Subject to demonstrating feasibility and an effective spending profile, it was proposed that the Priority Actions relating the Corporate Strategy Goals 4 and 5 (low carbon new housing, and proposals to enable householders and businesses to reduce carbon emissions and energy costs) were included as part the Council's Growth Initiatives (LGIs) being notified to the West Midlands Combined Authority (WMCA) under the West Midlands Investment Zone (WMIZ) scheme Memorandum of Understanding (MoU) and legal agreement. This would be subject to a significant feasibility and pilot project to establish how these areas of work could best deliver the aims of the LCLC Energy Strategy and the requirements of the MoU in the process of being agreed with the WMCA. Recommendations 3c and 3d therefore sought formal Cabinet support to bring forward proposals and a spending profile for Cabinet approval before the end of March 2026. As a first stage, a Feasibility and Pilot Project spanning 2024/25 and 2025/26 would be developed and brought forward to Cabinet for approval, including the resources required to undertake the feasibility and pilot project. This feasibility and pilot project would explore how to:

- Retrofit homes at a large scale including all tenures, to enable reduced costs and reduced carbon emissions.
- Deliver a replicable approach to retrofit which could continue to be rolled out where resources allowed.
- At least in part, an income stream which could be reinvested to enable the funding to be stretched further.

- Confidence within the local community that retrofit was achievable and valuable.
- Low carbon energy provision on commercial and community buildings delivering both a saving for occupiers and an income for the Council.
- Enable and support house buyers and developers to deliver new housing that exceeded the minimum energy requirements and deliver affordable, comfortable new homes.
- develop local skills more widely to provide capacity for a highly skilled local construction workforce.
- grow local capacity to support local investment and innovation.

This report was not seeking any additional funding to deliver the Programme Plan, although further requests might be justified as proposals for individual projects were developed. Aside from any proposals to use the Local Growth Initiatives funding to support the Strategy, the starting point was to utilise existing WDC funding to best effect. The Climate Change Reserve (balance available - £320,000) and the Renewable Energy Generation Reserve (£500,000) provided capacity to fund some of the energy-related projects directly. The Renewable Energy Generation Reserve had been set aside to fund energy projects which had a relatively short payback period (for example some rooftop solar schemes), which could therefore deliver an income and/or savings in a short time period which the Council could then choose to reinvest into further renewable energy schemes. The Climate Change Reserve could be deployed more flexibly to support energy measures in WDC buildings. In addition, £5m had also been set aside within the HRA over five years to support energy reduction measures in WDC housing stock. Appendix 1 to the report included the range of funding sources that could be utilised to support different workstreams within the overall Programme, including:

- Grants (such as the Swimming Pool Fund; Public Sector Decarbonisation Fund; Green Homes Grants)
- Borrowing and Bonds (such as UK Infrastructure Bank; Green Municipal Bonds; soft loans from community energy companies and PWLB) where there was a business case to enable affordable payback without undue risk.
- Other external sources of funding including obligations placed on energy companies or funding from other potential partners.

Recommendation 5 sought approval of delegated authority to the Programme Director for Climate Change (in consultation with the Climate Change Portfolio Holder) to spend money from the Renewable Energy Generation (REG) Reserve subject to a business case that demonstrated the following criteria would be met:

- the project would reduce carbon emissions for WDC or residents and organisations within Warwick District
- the project would deliver year-on-year energy cost savings for WDC or residents and organisations within Warwick District
- the cost savings would deliver a financial return to the Council (either through income or savings) such that the investment from the REG Reserve would be paid back in full within 10 years
- that there were effective ways of recovering the money from the financial savings to enable it to be returned to the Council's

general fund, thereby providing the option to continually replenish the REG Reserve.

An alternative option would be to bring forward all of the projects that fall under the Low Cost, Low Carbon Energy Programme 'umbrella' separately, without any overall strategic direction to prioritise and consider interdependencies. This was not a recommended approach as it would not use the Council's resources in the most efficient way, and it was possible that it would cause delays to achieving the Council's Corporate Strategy Goals and the Climate Emergency core ambitions.

Another alternative would be not to bring forward some/all of the projects that fell under the Low Cost, Low Carbon Energy Programme at all or to identify alternative projects. This was not a recommendation as the projects had been developed through the Low Cost Low Carbon Energy Programme Board and had also been subject to comment by the Climate Change/Low Cost Low Carbon Energy Programme Members Advisory Group.

There were alternative governance arrangements that could be established to oversee the delivery of the LCLC Energy Strategy. However, the Terms of Reference set out at Appendix 2 to the report were already being used by the Programme Board and had been designed to broadly align with the governance arrangements for the Corporate Strategy Strategic Priority 1.

It would be possible not to delegate authority to the Programme Director for Climate Change for utilising the Renewable Energy Generation Reserve. However, this had the risk that all individual projects would need Cabinet approval and would therefore potentially result in delay.

Councillor Boad asked about the monitoring of existing solar panels in Council properties, and what support had been and would be given to tenants to maintain them. He asked whether any energy savings made would be given to the tenants or the Council. He stressed the need to be realistic about costs and suggested that the Council work with local businesses and colleges to ensure that people with the correct skills were employed to undertake the work. Finally, he requested assurance that money would not be taken away from the budget for new builds in order to fund the energy conservation scheme.

Councillor Day stated that the difficulties with balancing objectives was appreciated, but reminded the Cabinet that the Council had a growing number of residents on the Category 1 Housing List, something that needed to be urgently addressed. Housing was a primary need, and more new houses were needed throughout the District.

Councillor Falp urged the Cabinet to further consider maintenance of solar panels, and to also look into replacing doors and windows of Council properties in need before retrofitting with solar panels.

The Overview & Scrutiny Committee noted the report and thanked the Cabinet members for attendance and their response to the questions.

The Leader confirmed that any electricity savings from existing solar panels in Council properties went to the tenant rather than the Council

itself. He would ensure that more information on this was circulated to all Councillors in due course. There were going to be challenges in terms of statutory responsibilities that needed to be addressed first, but retrofitting would benefit residents enormously. Measuring these benefits would be a priority in line with the aims of the new Corporate Strategy.

Councillor Williams explained that it was not an either/or between housing and decarbonisation. The strategy was clear that this project was not requiring any additional funds at this time, instead it was drawing on already allocated funds, the sources of which were detailed in the report. In response to Councillor Boads, questions, he stated that ensuring employment of workers with the necessary skills was of importance and would be addressed with the partnerships. It was intended that both the cost of saved energy and CO2 would be measured in line with the five indicators already in place for the Council's existing buildings and new homes. In terms of estimated District-wide carbon emissions, it was recognised that this could not just be a Council initiative, but rather actions would be implemented alongside to ensure that residents had access to funds to take responsibility for their own properties.

He then proposed the report as laid out.

Recommended to Council that authority be delegated to the Programme Director for Climate Change, in consultation with the Climate Change Portfolio Holder, to agree spending from the 2024/25 Renewable Energy Generation Reserve and for future years in which funding is available in the Reserve, in line with the criteria set out in paragraph 1.13 in the report; and asks the Council to update the Constitution to reflect this delegation.

Resolved that:

- (1) the Low Cost, Low Carbon Energy Strategy set out in Appendix 1 to the report be approved;
- (2) the terms of reference for the Low Cost Low Carbon Energy Programme Board as set out at Appendix 2 to the report be supported;
- (3) in the current financial year, the Programme Board commences work on the following priority actions within year 1 of its Programme Plan:
 - (a) Deliver rooftop solar / low energy lighting in key WDC assets, alongside other decarbonisation works for WDC assets with the greatest potential to benefit from decarbonisation measures.
 - (b) establish and agree a decarbonisation and energy reduction programme for the WDC housing stock to enable WDC housing to achieve EPC C (or beyond) by 2030.

- (c) bring forward proposals to deliver high quality, net zero carbon affordable housing on the Council owned sites.
 - (d) undertake feasibility and pilot work to establish a programme to enable householders and businesses to reduce carbon emissions and energy costs; and
- (4) subject to demonstrating feasibility and an effective spending profile, it is proposed that the priority actions c and d set out in recommendation 3 be included as part the Council's Growth Initiatives (LGIs) being notified to the West Midlands Combined Authority (WMCA) under the West Midlands Investment Zone (WMIZ) scheme Memorandum of Understanding (MoU) and legal agreement.

(The Portfolio Holder for this item was Councillor Williams)
Forward Plan Reference 1,420

163. **Authority to Amend Shared Ownership Leases**

The Cabinet considered a report from Housing which sought approval for a new policy explaining how applications for alterations and extensions to Council managed shared ownership properties would be managed and works overseen as required.

Shared ownership homes were a form of affordable housing where a resident buys part of a home and pays rent on the remaining part, which was owned by a Council or Housing Association. Shared ownership provided a route to home ownership for households unable to afford an equivalent home on the open market. The Council owned a small but growing number of shared ownership homes. This specific matter had arisen after the residents of a Warwick District Council (WDC) shared ownership home on Great Field Drive, Warwick, sought permission from the Council to alter and extend their home to accommodate their family. It was found that the Council did not have a policy setting out how it would determine requests to alter or extend shared ownership homes. To ensure fairness and consistency in decision making, and to protect Council assets, it was considered that a policy be required. In addition, the existing lease did not include a mechanism to allow the Council to permit the residents to make structural alterations to their home. If the Council wanted to agree to the works, the lease required amendment.

The Scheme of Delegation included authority for the Head of Housing to approve the terms to be incorporated into new shared ownership leases (HS-93) but did not include authority to instruct changes to existing shared ownership leases. It also did not give any authority to prepare and apply a policy authorising alterations or extensions to shared ownership properties.

A formal policy covering requests for extensions and/or alterations to WDC shared ownership homes was considered necessary to provide

clarity for residents, transparent decision making and to ensure the Council's interest in a property was not adversely affected by any alterations or extensions.

A draft policy had been prepared and is attached at Appendix 1 to the report. The policy was intended to be publicly available and therefore started with an introduction and background along with guidance on when consent may or may not be required. The section, titled 'What Alterations Will Not Be Permitted', identified certain types of work that would not be permitted and circumstances when work would not be allowed. In respect of communal areas, given a resident's ownership only extends to their property it would be inappropriate for them to undertake any works to communal areas. These might be internal areas but could also include external areas such as resident car parks and landscaped areas.

The exclusion of third party funded solar panels was necessary to avoid legal complications from having equipment fitted to a property owned by a third party. Excluding wood burners and the like was considered appropriate to protect local air quality.

In respect of normally withholding consent if a resident owned less than 50% of the property, this was recommended as a way to manage the risk exposure of the Council if there were any problems with the works. There might, however, be situations where the Council wished to deviate from this policy if a resident had a specific need for alterations, such as for a disability.

The policy continued to explain the application process and included guidance on the supporting information likely to be required. Due to the wide range of alterations a resident might wish to undertake, it was not possible to set out exactly what supporting information would be required. Contact details would be included in the policy to allow residents to make enquiries with the Council before submitting an application. An application form template had been prepared to identify the information that would be required for an application, however, a digital form would be developed in line with the Council's move to digital service delivery.

The assessment criteria listed in the policy covered the key factors that would need to be assessed in determining an application in order to protect the interest of the Council in the property and neighbouring properties. The purpose of listing these criteria was to allow residents to understand the factors that would be considered as part of their application and the range of matters that would have to be taken into account.

The policy also identified conditions that might be applied to any permission granted. The conditions listed were intended to mitigate the risk to the Council of the resident undertaking works.

The application process would create additional work for Officers and therefore it was considered appropriate to charge a fee for applications. Two fees were proposed, one for minor works which would not require significant Officer time and a higher fee for more significant works which would require more Officer time. The fees would continue to be

evaluated as part of the ongoing fees and charges review and as the policy was implemented.

The policy also highlighted the potential building insurance implications of residents undertaking work and the impact of alterations on the property value.

In addition to approving the proposed policy, the recommendation also sought delegated authority for the Head of Housing to make minor alterations to the policy as necessary. Given this was a new area of work for the Council, it was anticipated that minor changes might be required once the Council started applying.

If the policy was approved, an internal procedure would be prepared setting out the internal processes to ensure the smooth operation of the policy. This procedure would consider how the Council's internal processes could be made digital to improve customer experience and efficient service delivery.

All shared ownership homes were sold as leasehold, including houses. This was because the resident only buys part of a property and the Council retained ownership of the remaining part, along with the freehold.

The lease was made between the resident and WDC and gave the resident the right to occupy their shared ownership home subject to certain conditions. These conditions included, amongst other matters, a requirement to pay rent on the part of the property they did not own, restrictions on what they could and could not use the property for and what works they could and could not do to the property. Different properties had different leases. The lease for the shared ownership homes on Great Field Drive included a covenant preventing the residents from undertaking certain works, as follows:

Not to:

- (a) Make any alterations or additions to the exterior of the Premises;
- (b) Make any structural alterations or structural additions to the Premises;
- (c) Erect any new buildings on the Premises; or
- (d) Remove any of the Landlord's fixtures from the Premises

This covenant protected the Council's interest in the property by ensuring that residents did not make changes which could be detrimental to the property value, could require rectification by the Council or adversely affect adjoining properties. However, there was no mechanism in the lease to allow the Council, as landlord, to give consent for any extensions or significant alterations if it considered it was reasonable and appropriate to do so.

Purchasing a shared ownership home was a significant commitment for a household. Having made that commitment a household might find that they wanted or needed to change their home to meet their circumstances. Altering an existing home could often be a more affordable option than moving to a different property. It might also be that no suitable alternative homes exist, or the costs of moving were prohibitive. For these reasons it was considered that there would be circumstances where the Council concluded that permitting a resident to

extend or alter their home was reasonable. However, the existing clause in the lease prevented the Council from doing so.

As the existing covenant served a valuable purpose in protecting the Council's interests it was not proposed to remove it, but to modify it to introduce the facility for the Council to give consent where appropriate. This consent would be in writing and would be conditional to ensure the Council retained oversight of any works a resident proposes. The decision on whether to grant consent would be taken by the Head of Housing in accordance with a new policy on Altering and Extending Shared Ownership Properties as set out in Appendix 1 to the report.

Legal advice received on this matter confirmed that the Council could make an application to the Land Registry to discharge or modify a covenant on an existing lease. However, an exception could not be made in an individual case, therefore if the covenant was modified, this modification would apply to the whole of the Council's interest in an estate. This was one reason why delegated authority was sought on a general basis rather than for a specific property. The second reason was that it might be necessary to modify leases on other estates to give residents the same flexibility in the future and the delegated authority, if granted, would allow the Head of Housing to action this without seeking further approval from Cabinet.

Any change to the lease or consent provided to a resident for alterations would not affect the need for the resident to obtain relevant statutory consents such as planning permission and building regulations approval. Officers had reviewed the policies of other Registered Providers and most had a process in place to allow shared ownership residents to apply for permission to alter their homes, though the details varied between Registered Providers and were subject to limitations in individual leases. Moving forward, it was intended for all new shared ownership leases to include provision for the Council to grant permission for extensions.

In terms of alternative options, and in respect of the policy recommendation, it was considered necessary to have a policy controlling alterations and extensions to shared ownership homes. Therefore, the only alternative option was not to approve the policy and require Officers to prepare amendments. Members might also choose not to give delegated authority to the Head of Housing, Homes and Communities to make minor changes to the policy in order to retain full control over the policy. Any changes would then need Cabinet approval which could, in turn, add considerable delay.

In respect of the lease recommendation, there were two alternative options. The first was not to agree to any changes to shared ownership leases. This would prevent residents making structural alterations or extensions to shared ownership homes. For the reasons discussed above it was considered that there were likely to be circumstances where residents might reasonably wish to alter their homes and therefore if flexibility was not introduced into leases, it could cause reputational damage to the Council and could also negatively affect the living conditions of residents. Further, it could harm Council sales of new shared ownership homes if prospective buyers were deterred by this position.

The second option was to require any proposed lease change for the purpose of permitting an extension or alteration to a shared ownership home to be approved by Cabinet. This option would require cases to be presented to Cabinet as and when they arise which would require additional Officer time to prepare reports and additional Cabinet time to consider them. This would also delay the approval process for residents potentially by some months. Given the additional administrative burden, this option was not preferred.

In Councillor Wightman’s absence, Councillor Harrison proposed the report as laid out.

Recommended to Council that

- (1) the application fee under this Policy, as follows are set at:

"This fee is required before an application will be considered but will be returned if the application is refused.

Works	Fee
<i>Minor works that do not include any extensions, structural alterations or significant new outbuildings*</i>	<i>£50</i>
<i>Major works including any structural alterations, extensions and substantial outbuildings.</i>	<i>£200</i>

**Timber sheds with a floor area less than 12 square metres are considered minor works*

An application fee is not charged for adaptations required only to accommodate the needs a disabled resident however residents must still apply for permission.

Legal fees may apply if a licence is required under the terms of the lease."

- (2) authority be delegated to the Head of Housing in consultation with the Portfolio Holder for Housing and Assets, to make minor amendments to the policy as necessary, excluding the fees and asks the Council to update the Constitution to reflect this delegation; and
- (3) authority be delegated to the Head of Housing to amend shared ownership leases for the purpose of permitting residents to alter and extend their homes subject to the written agreement of the Council and asks the Council to update the Constitution to reflect this delegation.

Resolved that a new policy (as set out at Appendix 1 to the report) setting out the process for applicants to apply for consent for alterations and extensions to WDC shared ownership homes and how applications will be assessed be approved, subject to Council approval of the fees contained in the Policy

(The Portfolio Holder for this item was Councillor Wightman).
Forward Plan Reference 1,401

164. **Hazardous Substances Consents (HSC)**

The Cabinet considered a report from Place, Arts and Economy which sought to formalise the Hazardous Substances Consents process and revise the scheme of delegations to officers for this process.

The Planning (Hazardous Substances) Act 1990 and the Regulations made under that Act, required hazardous substances consent (HSC) to be obtained for the presence of hazardous substances on, over, or under land unless the quantities of substances were below the controlled quantities listed in Schedule 1 to the Planning (Hazardous Substances) Regulations 2015. Warwick District Council (WDC), in its role as Local Planning Authority, had responsibility for administering regulations in relation to the control of hazardous substances and determine HSC applications as well as enforcing controls, in conjunction with Environmental Health colleagues.

Controls ensured that hazardous substances could be kept or used in significant amounts only after the responsible authorities have had the opportunity to assess the degree of risk arising to persons in the surrounding area, and to the environment. They were concerned with the storage and use of hazardous substances which could, in quantities at or above specified limits, present a major off-site risk.

Where the presence of a hazardous substance was directly associated with a proposed development, local planning authorities could exercise a degree of control over the siting and use of hazardous substances through the development management process. This consent procedure allowed for control to be exercised over the presence of hazardous substances whether or not an associated development requiring planning permission was involved. It was geared to regulating the storage and use of hazardous substances. It would enable breaches of control which might present serious risks to be dealt with quickly and effectively.

The controls were planning controls. They did not replace or duplicate the requirements of the Health and Safety at Work etc. Act 1974, or the relevant statutory provisions defined in Part I of that Act. Even after all reasonably practicable measures had been taken to ensure compliance with the requirements of the 1974 Act, there might remain the residual risk of an accident which could not entirely be eliminated. The controls would ensure that this residual risk to people in the vicinity or to the environment was considered before a hazardous substance was allowed to be present in a controlled quantity. The extent of this risk would

depend upon where and how a hazardous substance was to be present; and the nature of existing and prospective uses of the application site and its surroundings.

If consent was required, applicants would need to apply for consent to the hazardous substances authority (in this case, WDC). It was important that applications provided all the relevant information as decisions on incomplete applications could be delayed. An application for consent must include the information set out in regulation 5 of the Planning (Hazardous Substances) Regulations 2015.

The responsibility for deciding whether the risk was tolerable for the community and hence whether a particular proposal to store or use a hazardous substance was one for the local hazardous substances authority, in this case Warwick District Council (WDC).

The first thing WDC would do is to make sure the application was in order. This would involve ensuring it meets the requirements set out in the Planning (Hazardous Substances) Regulations 2015. If the application was in order, WDC would acknowledge it and send a copy of the application to the Control of Major Accident Hazards (COMAH) competent authority. WDC would place details of the application on the register of consent applications, which was available to anyone who wanted to see it. If WDC did not consider the application was in order, it would tell the applicant why.

WDC must then consult the Control of Major Hazards (COMAH) competent authority and others as required by legislation. These included fire and civil defence authorities, other relevant planning authorities and public utilities. Natural England should also be consulted where it appeared to the hazardous substances' authority that an area of particular natural sensitivity or interest might be affected. A full list of relevant authorities was set out in Appendix 2 to the report.

The (COMAH) competent authority (usually the Health and Safety Executive (HSE) and the Environment Agency (EA) acting jointly) advised WDC on the nature and severity of the risk to persons in the vicinity and the local environment arising from the presence of a hazardous substance. It would recommend granting an application, granting an application with conditions attached or refusal of an application. For nuclear sites, the COMAH competent authority was the Office of Nuclear Regulation and the EA, acting jointly.

The COMAH competent authority was a statutory consultee and must be consulted by WDC before HSCs were granted.

Before reaching a decision, WDC would need to weigh up all the comments received, including those from the COMAH competent authority. It would take account of local needs and conditions, the local plan, and any other material considerations.

In view of its acknowledged expertise in assessing the off-site risks presented by a hazardous substance, any advice from the COMAH competent authority that hazardous substances consent should be refused should not be overridden without the most careful consideration. Where a hazardous substances authority was minded to grant consent

against COMAH competent authority advice, it should notify the COMAH competent authority and allow 21 days for the COMAH competent authority to give further consideration. During that period the COMAH competent authority would consider whether to request that the Secretary of State for Communities and Local Government called in the application for determination.

WDC might grant consent, either with or without conditions (including conditions as to how and where substances were kept and the times when substances might be present, or requiring permanent removal of substances within a certain time), or might refuse it. If it refused consent or granted it subject to conditions, it should provide full reasons for the decision. This would help the applicant to decide whether or not to contest the decision. The requirements for approval were set out in the Planning (Hazardous Substances) Act 1990 and the Planning (Hazardous Substances) Regulations 2015.

Conditions on how a substance was to be kept or used might only be imposed if the Health and Safety Executive (or in the case of nuclear sites, the Office of Nuclear Regulation) had advised that such conditions should be imposed. Where the COMAH competent authority was considering imposing a condition that restricted the location of a substance within a site, it should try to avoid imposing undue restrictions on relatively small amounts of that substance being located elsewhere in the establishment. For example, a condition might allow a hazardous substance to be stored in a moveable container in a different area of a site from where it had previously been stored provided the quantity did not exceed 10% of the controlled quantity. This avoided situations where, for example, a relatively small amount of a substance in a moveable container in a different part of the site (e.g. a gas canister to service a staff kitchen), or which was covered by the '2% rule', would otherwise be a breach of the condition.

The Secretary of State also had the power to call-in an application for their own determination. This would be very much the exception, for example where an application raised issues of more than local importance. Where an application was called-in, the hazardous substances authority must inform the applicant.

Under the nationally significant infrastructure planning regime hazardous substances consent could be deemed to be granted by a development consent order. The aim in doing so was to provide a 'one stop shop' for consenting for nationally significant infrastructure projects. A deemed consent could also be issued in certain other circumstances by the government where consent was required for a development by a statutory undertaker or local authority which required government authorization.

WDC should provide applicants with a decision within eight weeks from receipt of a valid application, but any extension to this eight-week period had to be agreed in writing with the applicant.

The current delegation for these licences was to the Head of Safer Communities and Leisure. The proposal was to move this delegation to the Head of Place, Arts and Economy as this was considered a more appropriate decision maker for this instance. In addition to this, the

delegation at present was to grant but not refuse licences under this regulation. This would mean if officers were minded to refuse an application then, at present, the decision would need to be taken by Council. Having reviewed the approach of other authorities recognising the technical requirements of these decisions, the strong guidance was that the advice of the COMAH should be followed. Therefore, it was proposed that the delegation be revised to allow officers to refuse the applications as well. To provide assurance and Member engagement it was also considered appropriate to revise the delegation so that the relevant Ward Councillors, Chair and Vice Chair of Planning Committee were consulted on any proposed decision before it was taken. In addition to this, due to the complex and sensitivities around any potential licence, a Solicitor acting for the Council would also be consulted.

In terms of alternative options, the Cabinet could decide to delegate the consideration and determination of these applications to a Committee. This could be based on the anticipation that any application was likely to attract public scrutiny and attention. However, the number of applications to be considered was likely to be limited and require significant technical knowledge. Therefore, it was recommended that delegated authority be given to officers for these applications, especially being mindful of the guidance that the recommendation from COMAH should be always followed.

Councillor Sinnott proposed the report as laid out.

Resolved that the Hazardous Substances Consents Process (Appendix 1 to the report) be noted.

Recommended to Council that delegated authority HCP (16) be revised to give delegated authority to the Head of Place, Arts and Economy, instead of the Head of Safer Communities & Leisure, to: exercise the Council's powers under the Planning (Hazardous Substances) Regulations 1992 (as amended by the Planning (Control of Major-Accident Hazards) Regulations 1999 & 2015) and associated Regulations, and that authority be delegated to the Head of Place, Arts and Economy to authorise appropriate named individuals, after consultation with the COMAH, relevant Ward Councillors, Chair and Vice Chair of Planning Committee and Solicitor acting for the Council, to grant, or refuse hazardous substances consents either unconditionally or subject to conditions and if necessary take all appropriate action to take enforcement to ensure compliance with these regulations.

(The Portfolio Holders for this item were Councillors Sinnott and King).
Forward Plan Reference 1,466

165. **Changes to the Parking Standards and Residential Design Guide SPD's and additional delegation to Head of Service**

The Cabinet considered a report from Place, Arts and Economy which sought approval to consult on the specific changes proposed to the Parking Standards, Residential Design Guide Supplementary Planning Documents and additional delegation to be given to Head of Place, Arts and Economy.

The Council adopted both the Parking Standards Supplementary Planning Document (SPD) and the Residential Design Guide (SPD) in June 2018. The report sought authority to undertake consultation on proposed changes to both documents. These minor changes to the Residential Design Guide were considered to be necessary to provide clarity on matters that had arisen in appeal decisions and in a ruling by the Local Government and Social Care Ombudsman in respect of a complaint made about the Council.

The proposed changes to the Parking Standards SPD would provide clarity on the way parked cars were counted to ensure that there was consistency in the methodology used when assessing compliance with the Parking Standards SPD.

It should be noted that this consultation would be seeking representations solely on the matters that were set out in the report. The consultation would not be seeking views on any other aspects of the adopted documents, and no significant alterations to the adopted documents were being proposed at this time. For this reason, recommendation 3 was proposing that authority be delegated to the Head of Service for Place, Arts & Economy, in consultation with the Portfolio Holder for Place to make any necessary minor amendments to the Parking Standards SPD and Residential Design Guide following the consultation process and to approve the updated versions of the two SPDs, where no adverse comments were received from the consultation.

It was likely that further and wider changes would be proposed during the public consultation. If it was considered that wider changes should be made at this time to either of these documents, these would be brought back to Cabinet for consideration and decision.

There was currently no process in place for the designation of Neighbourhood Plan Areas. The additional delegation would make the process for the designation of NDP areas quicker.

The changes to the Residential Design Guide were set out in Appendix 2 to the report. They were:

- to clarify that the 45 Degree Guideline measurement was taken from the nearest window in an extension where a neighbouring property had been extended, rather than the original rear window of the neighbouring property;
- to clarify that a Unilateral Undertaking was required where joint extensions were proposed that would breach the 45 Degree Guideline if only one of the extensions was to be constructed; and
- to omit Appendix B on refuse and recycling storage requirements.

The proposed changes to the 45 Degree Guideline would not alter the way in which the policy was implemented. Rather, they clarified how the policy had always been implemented.

The omission of Appendix B was necessary because the provisions in relation refuse and recycling storage requirements were out of date following the implementation of the new waste contract. There was a more up to date version of this document entitled Refuse and Recycling Storage Requirements published on the Council's website that would be referred to instead.

The proposed changes to the Vehicle Parking Standards were set out in Appendix 1 to the report. They were:

- to add two columns to each of the tables on pages 43 and 44 headed "No. of cars parking outside of PHB bays" and "Total parking stress %"; and
- to change the parking space size referred to in the last paragraphs on pages 43 and 44 to 6m from 5m.

The proposed changes to the Vehicle Parking Standards related to the methodology for undertaking parking surveys. This would not alter the way in which the policy was implemented. Rather, it provided clarity on the way that the policy had always been implemented.

This proposed change was considered to be necessary to address elements of the parking survey methodology that had a degree of ambiguity. This ambiguity could affect the ability to ensure strict compliance with the methodology.

Under the Town and Country Planning Act 1990 and Planning and Compulsory Purchase Act 2004, Local Planning Authorities had a statutory duty to advise or assist communities in the preparation of Neighbourhood Development Plans (NDP).

The requirement to advertise NDP area applications based on Parish boundaries was set out in the Neighbourhood Planning (General) Regulations 2012 (as amended). Following amendments, an application for an NDP area based on the Parish boundary could be immediately written-up for approval by the Council rather than having to be publicised for six weeks.

Warwick District Council did not receive any requests for the designation of the NDP area as most of the NDP areas were already designated. Stoneleigh and Ashow had a unique situation whereby they were designated a Neighbourhood Area in 2014. This was then replaced by a joint Neighbourhood Area for Baginton, Bubbenhall, Stoneleigh and Ashow in July 2015, which in turn was superseded by an area designation for Baginton and Bubbenhall in September 2016. This left Stoneleigh and Ashow without a Neighbourhood Plan Area designation.

The Council received an NDP area designation for Stoneleigh and Ashow on 20th December 2022 based on the Parish boundary. As this was the first time the Council had to designate a Neighbourhood Plan Area and without any agreed protocol, the legal Team advised that it should be done with the approval of the Portfolio Holder and the Leader of the Council. It was also acknowledged that, in future, to save time and to

streamline the process, authority should be delegated to the Head of Service to designate NDP areas. It should also be noted that many authorities across the country have delegated this power to the appropriate Head of Service.

In terms of alternative options, Cabinet could decide not to undertake the required consultations. This would mean that there was out of date information contained within the Residential Design Guide. Furthermore, a decision had been received from the Local Government and Social Care Ombudsman that directed the Council to rectify this issue.

Acknowledging that both documents were now a few years old an alternative option was to undertake a comprehensive review of either or both SPDs. However, it was felt that a review of the documents would be better timed upon adoption of the emerging South Warwickshire Local Plan and furthermore such comprehensive reviews would involve a significant amount of staff resource, which was not available at the current time because of other existing workstreams, most notably work on progressing the South Warwickshire Local Plan.

Cabinet could decide not to delegate power to the Head of Service to approve the designation of Neighbourhood Development Plan Areas. This would mean that all such designations would need to be approved by Leader of the Council and Portfolio Holder for Place in consultation with the Head of Service.

The Group Leaders welcomed these changes and acknowledged that it would help with the development of the South Warwickshire Local Plan.

Councillor King proposed the report as laid out.

Resolved that

- (1) the proposed changes to the Parking Standards SPD and the Residential Design Guide, as set out in Appendix 1 and 2 to the report be endorsed;
- (2) a statutory six-week consultation on the changes to the Parking Standards SPD and the Residential Design Guide that have been put forward in the report, be undertaken; and
- (3) subject to the consultation responses not requesting significant further changes beyond those outlined in the report, authority be delegated to the Head of Service for Place, Arts & Economy, in consultation with the Portfolio Holder for Place to make the necessary minor amendments to the Parking Standards SPD and Residential Design Guide and approve the updated versions of the two SPDs. If any adverse comments are received in response to the consultation, a further report be brought back to Cabinet for consideration/

Recommended to Council that the scheme of delegation be amended to delegate authority to the Head of Place, Arts and Economy to approve the designation of Neighbourhood Development Plan Areas.

(The Portfolio Holder for this item was Councillor King).
Forward Plan Reference 1,461

166. **Authority to sell properties developed at The Paddocks Cubbington. Authority to sell further percentages of shared ownership properties up to 100% and to offer lower initial equity stakes for shared ownership homes**

The Cabinet considered a report from Housing which sought delegated authority for Officers to complete sales of open market homes and partial sales of shared ownership homes at The Paddocks, Cubbington and for all future Council delivered housing sites. Agreement was also sought for alterations to the Head of Housing's authority relating to shared ownership staircasing and initial sales.

The Council was preparing to sell new homes developed at The Paddocks, Cubbington. This was a Council led development of 17 new homes comprising:

- 10 open market homes;
- five rented affordable homes; and
- two shared ownership homes

All of the homes had been developed within the Housing Revenue Account (HRA). The rented affordable homes would remain in the HRA and would be let to households on the Council's housing register; however, the open market homes were to be sold with the revenue being returned to the HRA.

The shared ownership homes were to be partially sold; buyers would purchase part of the property from the Council and pay rent to the Council on the unowned part. The Council retained the freehold to the property unless and until the resident buys more shares in the property in the future to reach 100% ownership (this process was known as staircasing). Again, the revenue from the sale and rent of the shared ownership units would be returned to the HRA.

Details of the scheme had been previously approved by Cabinet, including purchase of the site and the development build costs. The development had now reached an advanced stage of construction and the Council had received offers on five of the 10 homes for open market sale. In order to proceed to exchange the Head of Housing required authority to sell the homes. Without this the units could not be sold, and the Council could not collect its return on investment.

To allow for future developments and those in the pipeline, the request was for the authority to extend to all Council developments in addition to the Paddocks.

Purchasers of shared ownership homes buy an initial proportion of a property based on what they can afford to buy. They would then pay rent on the remaining portion of the property. The initial proportion they could buy ranges from 10% of a property to 75%.

During their ownership, residents might find their financial position improves and they could buy additional shares in their property. This was known as staircasing. As a resident increased the amount of their home that they owned, the rent they paid decreased. In most cases owners could purchase up to 100% of their home but in some cases, ownership was restricted to 80%. The right to purchase additional shares was set out in the lease along with the maximum amount that could be purchased.

Though the right to purchase additional shares was set out in the lease, currently the Head of Housing did not have authority to process requests from residents to purchase additional shares in their home. To provide good customer service and expedite resident requests, authority was sought for the Head of Housing to authorise the sale of extra shares in accordance with the lease. Income from the sale of additional shares would be returned to the Housing Revenue Account.

At present, under the scheme of delegation (HS(93)(i)), the Head of Housing had authority to: approve the terms to be incorporated in a Shared Ownership lease which would include 'staircasing' provisions enabling a lessee to acquire between a minimum of a 25% up to and including a 100% interest in the property with the right to request a transfer of the freehold interest on acquiring a 100% interest.

For many years the minimum percentage equity stake a shared ownership purchaser could buy was 25%. However, the government had introduced a new model for shared ownership which lowered the initial minimum equity stake to 10%. This reduced the cost of initial purchase which reduced the level of deposit a buyer must save for to be able to access a shared ownership home. This could make it easier for households to access shared ownership homes as less capital was required up front although it was important to note that the rental cost increased when a lower proportion of a property was bought.

Providers of shared ownership homes now had to offer initial equity stakes from 10%. This amendment would ensure WDC were consistent with the current shared ownership model. Therefore, an amendment to the scheme of delegation to replace reference to 25% with 10% was requested.

The alternative option was for Cabinet to require the sale of each property to be approved directly by Cabinet. This would place additional administrative burdens on both Officers and Cabinet and would significantly delay the sale process which might result in sales falling through. This would be detrimental to the Council's financial position and could cause reputational damage. As such this option was not preferred. It was not considered a viable alternative for Cabinet to refuse to agree to disposal of the properties as this would be especially damaging to the Council's financial position and reputation.

The alternative option was to require all requests for staircasing to be brought before Cabinet for approval. This would place additional administrative burdens on both Officers and Cabinet and would significantly delay the staircasing process. This would be contrary to providing good customer service for residents and was not therefore a preferred option.

In respect of lowering the initial equity stake available to purchasers of shared ownership homes, the alternative option was to maintain the current minimum of 25%. This option would provide less flexibility for residents and might affect the Council's ability to seek grant funding on schemes from Homes England. A condition of current Homes England funding was that shared ownership homes were offered from a minimum share of 10%. As such this alternative was not a preferred option.

In Councillor Wightman's absence, Councillor Harrison proposed the report as laid out.

Recommended to Council that it updates the Constitution to include the following delegated authorities from Cabinet:

- (1) authority for the Head of Housing, in consultation with the Portfolio Holder for Housing and Assets, to sell open market homes and part sale of shared ownership homes on Council delivered housing sites;
- (2) authority for the Head of Housing, in consultation with the Portfolio Holder of Housing and Assets, to sell further percentages of shared ownership properties to allow staircasing up to 100%; and
- (3) delegated authority HS(93)(i) be amended to read that the minimum equity a shared ownership lessee may acquire from 25% to 10%, to align with the new Homes England model lease.

(The Portfolio Holder for this item was Councillor Wightman).

(The meeting ended at 6.48pm)

CHAIR
4 September 2024