



**MILTON KEYNES
COUNCIL**

Minutes of the meeting of the EXECUTIVE SCRUTINY PANEL held on WEDNESDAY 28 SEPTEMBER 2011 at 6.00 PM

Present: Councillor Tallack Chair)
Councillors Barney, Brackenbury, Coventry, Hoyle, Jury, Lloyd, Maric, McLean (substitute for Councillor Klein) and Shafiq

Officers: J Reed (Assistant Director [Housing]), P McCourt (Assistant Director [Law and Governance]), N Fenwick (Assistant Director [Planning, Economy and Development]) and S Heap (Democratic Services Manager)

Also Present: Councillors Edwards, Crooks, Galloway, A Geary and A Morris

**Number of
Public Present:** 4

ES03 MINUTES

That the Minutes of the meetings of the Panel held on 10 March 2011 and 24 May 2011 be approved and signed by the Chair as correct records.

ES04 CALL-IN OF CABINET DECISION – ‘AFFORDABLE RENT’: INTERIM PLANNING POLICY POSITION

The Panel noted that the decision of the Cabinet made on 6 September 2011, relating to an interim planning policy position on ‘Affordable Rent’, had been called-in by Councillor Crooks, Councillor Edwards and Councillor Long.

It was noted that the Cabinet had decided:

“That for planning purposes, where a viability assessment (in accordance with the Affordable Housing Supplementary Planning Document (SPD)) shows that the required SPD tenure mix renders a development unviable, the use of ‘affordable rent’ be accepted as an affordable housing tenure in Milton Keynes.”

The reasons cited for the call-in by Councillor Crooks, which were presented by Councillor Galloway, were that:

- (a) the new Government policy was simply a guideline and not mandatory;

- (b) it would lead to significantly higher rents at a time when Housing and other benefits were being capped and in some instances reduced and therefore would impact hardest on those who are least well off.

The reasons cited for the call-in by Councillor Edwards were:

“Because of distinct analysis of the question of Affordable Rent within the local market and the question of calculation and the understanding of the definition remains in the Draft National Planning Policy Framework.

‘Affordable rent’ is set at a maximum of 80% of open market rent including service charges. Although a maximum, 80% has become the expected level of rent. ‘Affordable rent’ is a distinct product from social rent but would be allocated in the same way.

Obviously the ‘affordable rent’ tenure did not exist at the time that evidence for the Local Plan or SPD was produced or when the latest Strategic Housing Market Assessment was undertaken. Therefore ‘affordable rent’ is not referred to in these policy documents, nor is it included in the submission Core Strategy. The existing policy documents do however allow the tenure mix to be varied on viability grounds.”

The reasons cited for the call-in by Councillor Long, which were presented by Councillor Edwards, were:

“Strategic Context.

1. The paper focuses upon asking Cabinet to adopt an interim planning policy position, yet its consequences are profound for the meeting of housing need and the creation of sustainable communities. The Cabinet needs to consider the strategic housing context before adopting an interim planning policy position. The consequences of adopting the recommendation in the Cabinet paper undermine the meeting of 2 Council strategic aims:
 - (a) Developing cohesive communities (Strategic Aim 1)
 - (b) An economy with a sustainable and long term future. (Strategic Aim 4)
2. The paper solely considers the narrow issue of whether the Affordable Rent as a key feature of flexible tenure being introduced through the Localism Bill and by amendment to the Tenant Services Authority regulatory standards, should be accepted as “an affordable tenure in Milton Keynes”. The paper therefore fails to consider the wider strategic context such as the important role Affordable Rent might play alongside their tenure options. This being the key point in the CLG Impact Assessment (June 2011) is that Affordable Rent is one element of the approach required to meet housing need.

3. The failure to consider the strategic housing context arises from the paper's focus on the need to ensure the viability of housing developments. Developing an interim planning policy to allow development to proceed is a recipe for bad developments that do not reflect existing Council policy on tenure mix or the wider strategic policy commitment to sustainable communities.
4. Fourthly, whilst recognising that the use of Affordable Rent could to be seen as part of the package of tenure requirements that should be reflected in all planning applications the Cabinet report is silent on this key strategic planning and strategic housing matter. What is the new balance to be achieved?

Affordability.

5. Fifthly it is clearly the case that Affordable Rent levels in Milton Keynes are not affordable. The report in sections 2.14 to 2.16 is very clear that Affordable Rent will not meet the housing needs of the city. This suggests that the recommendation to Cabinet is simplistic reflecting the emphasis on concluding planning applications rather than meeting housing need and the long term sustainability of new communities. The evidence is drawn from Housing Needs Assessments.

Allocations.

6. Given that Milton Keynes Council does not have a clear and transparent allocations policy, it is not clear how the allocation of Affordable Homes would be consistent with the allocation of social housing lettings, another Government objective. The Localism Bill will require the Council to establish an Allocations Policy that will cover matters such as grounds for determining a flexible tenancy. This policy will need to reflect the Allocations Strategy of the Authority that all registered providers will be expected to sign up to. That strategy will need to be clear on the role for Affordable Rent, both where linked to AHP requirements and in other non-Government funded developments and in the re-letting of social housing. The Cabinet paper is silent on this key area because its focus is too narrow.

Loss of Social Housing.

7. The Council should adopt a strategic housing policy on the use of Affordable Rent before adopting an interim policy for planning purposes. The consequences of the interim policy are long term and could see 860 social rented homes lost through conversion to an 'unaffordable' rent model.

Security of Tenure and stable sustainable communities.

8. No consideration is given in the report to the move to flexible tenancies. They are the short term tenancies which are a requirement of Affordable Rent under the AHP and implicit in the wider (unfunded) use of Affordable Rent. I do not believe the Council would support the ending of life time tenancies in favour of the instability created by flexible tenancies.
9. That the Cabinet should re-state the Council's strategic commitment to creating stable, prosperous communities. However that commitment should reflect both the need to meet housing need, but also recognition of the importance of diversifying who can access social housing. The early adoption of an interim planning policy on Affordable Rent suggests a lack of consistency with long term Council commitments to sustainable communities and clearly reflects a desire to sign off planning applications. It may help meet immediate development pressures but the long term implications could be profound.

Benefit Dependency and Worklessness.

- 10 The interim policy and use of Affordable rent will either fail to meet housing need (paragraph 2.14) or create benefit dependency and deep pockets of worklessness. Bringing a wider range of people into social housing is a positive move, but there has to be a balance with the meeting of housing need. The failure to address this balance will see homelessness costs to the Council increase. The interim planning policy will have implications for other Council services and budgets as well as potentially damaging long term implications for some communities.
- 11 The paper suggests that the consequence of not adopting Affordable Rent will be to put at risk Section 106 and CIL funding for infrastructure. This suggests that a discussion is needed on how the social housing in any development might be funded. Could a mix be achieved by use of land contributions, New Homes Bonus money, prudential borrowing or by only working with registered providers who make contributions to any new development where they are the chosen partner?

Equality Impact Assessment.

12. The interim planning policy position has profound equality and diversity implications. The report is silent on this area and there is no Equality Impact Assessment. Given that the reason for the paper is to address the tenure mix within housing developments and given that social housing is aimed at households not served by the marketplace it seems remiss that the paper and its consideration of the Affordable Rent model does not consider the equality and diversity implications. I suspect the adoption of Affordable Rent will

either lead to increased homelessness, where the Council has a duty to the household, or to benefit dependency. Both these will impact disproportionately on low income and vulnerable households and on people within the 7 equality strands where the Council has a public duty under the Equality Act 2010.”

The Panel also heard from representatives of Shelter and the Guinness Trust who were called as witnesses.

The Panel considered the reasons submitted for the call-in, together with evidence presented at the meeting by Members and witnesses.

The Panel noted that it could either:

- (a) refer the item back to the Cabinet, setting out the nature of the Panel’s concerns;
- (b) not refer the item back; or
- (c) refer its views directly to the Council.

RESOLVED –

1. That the decision be referred back to Cabinet requesting that the Cabinet consider additional evidence, factual information and a clearer proposal for a detailed Interim Policy, which specifically:
 - (a) takes account of:
 - (i) risks;
 - (ii) the unique situation of Milton Keynes;
 - (iii) the draft nature of national policy in respect of funding; and
 - (iv) the impact on other benefits.
 - (b) differentiates between Affordable Rents and social rent;
 - (c) makes it clear that the Interim Policy does not change the Council’s Planning Policy to require 25% social housing and 5% shared ownership for new residential development, but if necessary limits any Affordable Rent element to a proportion of the 5% currently allocated for shared ownership, unless the achievement of that is proved to be extremely unviable; and
 - (d) looks at more wide ranging options in response to problems of development viability, such as commuting of funds from developers to allow the Council to build new social housing, either itself or in partnership with housing associations.

2. That the Cabinet be requested to review the Interim Policy by June 2012.

ES05 CALL-IN OF CABINET DECISION – REVISIONS TO THE CAPITAL PROGRAMME AND SPEND APPROVALS

It was noted that the call-in of the Cabinet's decision on 6 September 2012 relating to the allocation of resources in the Capital Programme 2012/13, giving spend approval for the MK Rose Cenotaph project had been withdrawn.

ES06 CALL-IN OF DELEGATED DECISION – STREET LIGHTING CAPITAL PROGRAMME

It was noted that the call-in of the Leader of the Council's decision, taken on behalf of the Cabinet Member responsible for Transport and Highways, on 7 September 2011, relating to revisions to the street lighting arrangements in order to achieve budget savings of £394,380 in the current financial year had been withdrawn.

THE CHAIR CLOSED THE MEETING AT 9.01 PM