

**MINUTES
OF THE MEETING OF THE
CABINET**

TUESDAY, 14 MAY 2024

Held at 7.00 pm in the Council Chamber, Rushcliffe Arena,
Rugby Road, West Bridgford
and live streamed on Rushcliffe Borough Council's YouTube channel

PRESENT:

Councillors N Clarke (Chair), A Brennan (Vice-Chair), R Inglis, R Upton, D Viridi and J Wheeler

ALSO IN ATTENDANCE:

Councillors R Bird, C Thomas, J Walker and L Way

OFFICERS IN ATTENDANCE:

L Ashmore	Director of Development and Economic Growth
D Banks	Director of Neighbourhoods
G Dennis	Monitoring Officer
P Linfield	Director of Finance and Corporate Services
K Marriott	Chief Executive
H Tambini	Democratic Services Manager

65 Declarations of Interest

Councillor Brennan made a declaration of interest in respect of Item 10 Review of Smoke Control Areas, and confirmed that she would not take part in the debate or vote on the item.

66 Minutes of the Meeting held on 9 April 2024

The minutes of the meeting held on Tuesday, 9 April 2024 were agreed as a true record and signed by the Chair.

67 Citizens' Questions

Question from Ms Claire Wenn to Councillor Viridi. Ms Wenn was unable to attend the meeting, so her question was read out by the Leader, Councillor Clarke.

“Why is it that owners of new build properties in Rushcliffe are in effect paying Council Tax twice? Once to the Council and once to a management company to maintain green spaces accessible to and used by the whole community, not just those who pay the additional fee?”

Councillor Viridi thanked Claire Wenn for the question and stated that the spend was in relation to assets not maintained by, or the responsibility of, the Council

and therefore residents were not paying twice. Those individuals paying fees did so based on contracts they had entered into with developers and it would not be right for taxpayers across the Borough to be paying for a service that was not the responsibility of the Council. Councillor Virdi reiterated that the payment of those fees was in no way a replication of Council Tax payments to the Council.

Question from Mr Jonathan Morris to Councillor Virdi. Mr Morris was unable to attend the meeting, so his question was read out by the Leader, Councillor Clarke.

“Why is the financial risk to Rushcliffe Borough Council of setting up an estate management company deemed so high that it prevents doing so, despite the activity being financially attractive and viable for many private businesses and investors, given 100% of the costs incurred can be charged to the affected residents?”

Councillor Virdi thanked Jonathan Morris for his question and stated that to fulfil the duty costs would be significant, as outlined in the report to be discussed this evening. It would come with much risk in setting-up a company, including the overheads consumed in managing a company, the resources required to operate the service, the Council did not have the in-house expertise, and then there were further risks in recovering the income and the associated costs of this. In simple terms, it was prudent for the Council not to take the risks if the private sector could fulfil this function. Councillor Virdi acknowledged the legitimate issues raised, which would be addressed later in the meeting, and advised that the emphasis of the recommendations was to improve enforcement of the private sector, which was where the expertise currently rested and thus they made a profit. Cabinet noted that the Council had limited powers to compulsorily adopt open spaces, and therefore it would make such proposals more difficult to implement.

68 Opposition Group Leaders' Questions

Question from Councillor Birch to Councillor Upton. Councillor Birch was unable to attend the meeting, so his question was read out by the Leader, Councillor Clarke.

“Can you please confirm when Rushcliffe Borough Council moved away from adopting public spaces and instead began allowing management companies to assume these responsibilities, with the costs being passed on to the residents?”

Councillor Upton responded by stating that the Borough Council stopped adopting open spaces on new housing estates in 2011.

Councillor Birch had submitted a supplementary question to Councillor Upton, which was read out by the Leader.

“Considering that the Growth and Development Scrutiny Group had recommended further investigation into the practices of management companies and alternative, why does the Cabinet recommend maintaining the

status quo, causing a significant number of residents to be double taxed, under a policy introduced under this Conservative-led administration?"

Councillor Upton advised that the issue of double taxation had just been answered by Councillor Viridi and the recommendations in the report would be discussed later in the meeting.

Question from Councillor J Walker to the Leader, Councillor Clarke.

"In light of the casework experienced by Councillors who represent the areas most affected by management companies due to the clear negative impact they are having on residents, does it not seem appropriate to keep up the scrutiny of Management Companies and keep it a Key Decision for this Council?"

The Leader thanked Councillor Walker and agreed that it would be appropriate to continue to scrutinise management companies; however, he stated that it was not a political decision to make this a Key Decision, and that it was the Monitoring Officer's professional view, that this item did not meet the criteria set out within the Constitution to be a Key Decision. Significant staffing resources had already been dedicated to this subject, acknowledging its importance, and given the recommendations in the report, the Council would continue to champion, on behalf of residents, concerns over the actions of such management companies.

Councillor Walker asked a supplementary question to the Leader.

"Given that this was a long term, permanent issue for residents and should be made a Key Decision, could this be brought to Full Council?"

The Leader reiterated his previous comments that this was not a political decision; however, this was an issue that everyone was concerned about and was not a political party matter. He felt that everyone should be working together to get the issue resolved, and it was not relevant if it was a Key Decision or not, as the priority was to ensure that management companies were regulated

Question from Councillor Thomas to Councillor Upton

"In Agenda Item 8 there is a proposal for the Council to acquire 50ha of land and maintain it for carbon sequestration, at an estimated maintenance cost over 15 years, including initial planting and replacement but not land purchase, of around £1M.

In Agenda Item 7 the estimated cost for maintaining about twice as much open space in Fairham (110ha) over 15 years is £11M. Land on new estates could be acquired as a planning gain with the developer probably covering the cost of initial planting.

Why is one estimate so much more expensive than the other?

Councillor Upton thanked Councillor Thomas and advised that the Council was

not comparing like for like. Agenda Item 7, which referenced Fairham included more infrastructure costs than Agenda Item 8, with the figures in both reports being calculated from national building and surveying guidance.

Councillor Thomas asked a supplementary question to Councillor Upton.

“Are you aware in a recent planning application approved in Gotham that the largest area of greenspace is for biodiversity gain with no public access, including residents of the estate, who will presumably be landed with the maintenance bill. How does the Portfolio Holder feel about this scenario?”

Councillor Upton stated that he understood what was being said; however, he was unaware of the specific application being referred to and would provide a written response.

69 **Revised Contaminated Land Inspection Strategy 2024-2029**

The Cabinet Portfolio Holder for Environment and Safety, Councillor Inglis presented the report of the Director – Neighbourhoods, which detailed the revised Contaminated Land Inspection Strategy for 2024-2029.

Councillor Inglis advised that contaminated land could pose a significant risk because of substances contained within it and stated that the two key areas of the report related to the protection of the local environment from harm and to the protection of people’s health, well-being and safety, which also complimented the Council’s Corporate Priorities for the environment and quality of life. The Council was required to regularly review the Strategy and it had last done so in 2018.

Councillor Inglis stated that in December 2013, DEFRA had announced that funding for site investigations would be withdrawn, which had resulted in the Council having to be more reactive, rather than proactive, when undertaking contaminated land investigations, due to the costs falling directly on it. Cabinet noted that primarily investigations would be dealt with in the planning process at cost to the landowner, which was deemed the most appropriate means of dealing with land contamination.

Councillor Inglis advised that the Strategy remained unchanged from the last review, ensured that the Council met its responsibilities under the legal requirements of the Environmental Protection Act 1990, and represented the anticipated progress in the context of current resources and expertise available to the Council, with a renewed action plan for the next five years.

In seconding the recommendation, Councillor Viridi referred to the withdrawal of Government funding in 2013, which left the Council with a potential budget shortfall from any required investigation and remediation. If a major emergency occurred, financial support could be requested from DEFRA, subject to its budget availability, but generally costs would be resolved directly with the landowner and their insurance companies through the Council’s planning regime.

Councillor Viridi advised that for Council owned land, it would be necessary to

utilise contingency budgets or in-year efficiencies, with staff costs contained within existing budgets, and Cabinet was reminded that the Council was unable to carry out its statutory enforcement responsibilities without a Strategy being in place.

It was RESOLVED that the Contaminated Land Inspection Strategy 2024-2029 be approved.

70 **Management of Open Spaces in New Developments**

The Cabinet Portfolio Holder for Planning and Housing, Councillor Upton presented the report of the Director – Development and Economic Growth, which detailed the management of open spaces in new developments.

Councillor Upton referred to the concerns reported by Councillors and residents and stated that this was a national issue, for which there was currently no regulation for the governance of private management companies. The issue had been considered by the Growth and Development Scrutiny Group in January 2024, with a progress review scheduled for Spring 2025.

Councillor Upton stated that over recent years, the design and layout of many new housing estates had changed, to accommodate environmental and topographical issues and provide biodiversity. With increased housing density, private gardens had generally got smaller, and communal, public open spaces, managed by private management companies had been provided by developers to try and compensate for that.

It was noted that historically the Council had adopted small scale open spaces; however, due to increased complexity, and significantly increased costs, the Council had stopped this in 2011. Councillor Upton advised that detailed research by officers had been undertaken to look at the cost of reverting back to adopting public open spaces, details of which were highlighted in paragraphs 4.23 to 4.30 of the report, and it had concluded that the Council was not in a position to do that, due to the significant financial burden that this would create.

Councillor Upton confirmed that the Council was taking a more active and supportive role, working with both developers and management companies to encourage good practice, as highlighted in paragraph 4.36. A Supplementary Planning Document (SPD) and a Good Practice Code were being developed and officers had met with developers and management companies to discuss concerns raised by residents, and all have said that they were keen to build better relationships with both the Council and residents.

Councillor Upton stated that the majority of developers were registered with the independent New Homes Quality Board, which included a New Homes Ombudsman service. The Council was aware of the Government's intention to legislate in this area and that it was actively lobbying to regulate the governance of management companies. Councillor Upton reminded Cabinet that the Leader had written to the Secretary of State in March urging the Government to put controls in place. Reference was made to the market study into housebuilding by the Competition and Markets Authority (CMA), which the

Council had responded to, with details of the three recommendations from that published report highlighted in paragraph 4.19. The key recommendation was that councils should adopt amenities on all new housing estates; however, the CMA did not suggest how that should be funded, it recognised concerns on how councils would find funding and suggested that the Government would need to consider this. It was noted that the Leader had received a response to his letter, in which the Secretary of State confirmed that the Government would be responding to the CMAs report within 90 days of its publication in February.

Councillor Upton concluded by stating that the Council understood the concerns raised, in particular the financial costs to residents, and that it had and would continue to lobby for Government legislation, whilst waiting for the Government's response to the CMA report. This Council did not have the legal power to oblige developers to hand over the management of open spaces to it, and as previously mentioned, it was currently not financially viable for the Council to revert back to managing open spaces, as to do so would only worsen an existing projected budget deficit position. The Council was playing a much more proactive role to try and improve the situation, whilst considering guidance for new estate design layouts as part of its new Building Design Code.

In seconding the recommendation, the Leader referred to the genuine concerns raised by residents, and the importance of this issue, as illustrated by the number of questions submitted. The Leader reiterated that this was a national problem, with the introduction of management companies leading to unintended consequences and advised that he would continue to lobby through various channels, including the LGA and the District Councils Network. It was vital that proper rules and legislation were in place, and the Leader reiterated that as everyone appeared to generally be in agreement, it would be helpful to have collective cross-party discussions, to identify what issues needed to be taken forward.

Councillor J Wheeler emphasised the importance of needing Government legislation, referred to the issues raised in paragraph 4.29 of the report and to the complexity of new developments, not just in relation to open spaces. Councillor Wheeler felt that any legislation and policies should be clear and robust to provide assurance and security to residents going forward.

The Leader referred to paragraph 4.36 of the report, which highlighted that officers were already talking with developers, and that management companies had been invited to join Development Boards. He emphasised how important this issue was and that the Government needed to bring regulations forward.

It was RESOLVED that:

- a) the Council's position not to adopt open spaces on new developments due to the significant financial burden this entails be reaffirmed;
- b) the proposal for the Council to take a more active role working with developers and management companies to encourage good practice, as outlined in section 4.36 of the report be supported;

- c) the Growth and Development Scrutiny Group be requested to review progress against the proposals as set out in section 4.36 of the report in Spring 2025; and
- d) the Government be lobbied to regulate the governance of management companies, to ensure transparency, remove charges unrelated to the management of open spaces, mandate engagement with homeowners and to expediate the adoption of the Leasehold and Freehold Reform Bill.

71 **Rushcliffe Carbon Offsetting Framework**

The Cabinet Portfolio Holder for Planning and Housing, Councillor Upton presented the report of the Director – Neighbourhoods, which detailed the Carbon Offsetting Framework for Rushcliffe.

Councillor Upton stated that in 2020 the Council agreed a target to be carbon neutral by 2030, from its direct operations, and it adopted a Carbon Management Action Plan to monitor progress. In 2021 the Climate Change Strategy 2021-2030 was adopted and good progress was being made, with several projects underway; however, some carbon offsetting estimated at 360 tonnes per annum would still be required. Councillor Upton advised that the focus of the framework would be offsetting within the Borough, including the establishment and enhancement of a range of natural habitats. The Council could choose to acquire carbon credits from third party providers or land outside the Borough; however, it was considered important to show local leadership. Councillor Upton referred to the options available, which were detailed in paragraph 4.5 of the report, with 40 hectares of additional woodland and 10 hectares of additional meadow or wetland required to offset the Council's carbon emissions. Section 4 of the report provided details of the types of natural habitat that could give good carbon offsetting, together with the principles of what and where to plant and included a map detailing the best areas of the Borough for re-wilding.

Councillor Upton confirmed that some land acquisition would be required, which would need to go through the Acquisitions and Disposals Policy. Section 6 of the report set out guidelines and some risks and recommended that a Site Specific Risk Assessment should be undertaken for all proposed purchases. Councillor Upton referred to paragraphs 7.14 to 7.16 of the report, which detailed how purchase costs could be achieved by using the Climate Change Reserve, together with various funding support schemes. Councillor Upton concluded by reiterating that good progress was being made, but that action needed to be taken now on this matter.

In seconding the recommendation, Councillor Brennan stated that to achieve the carbon neutral targets by 2030, some difficult and potentially expensive decisions would have to be made, and the report provided a pragmatic reflection that some carbon offsetting was required. Councillor Brennan welcomed the recommendation to purchase land within the Borough, even though that might be more expensive, as it would provide an opportunity to enhance the local environment and increase biodiversity. She referred to a recent report, which had stated how 'de-natured' the UK had become and

welcomed the opportunity to creatively improve the natural environment across the Borough and agreed that it was important to take action now.

The Leader welcomed the report and recommendations and stated that going forward other options and alternatives would be considered to further increase offsetting.

It was RESOLVED that:

- a) the Carbon Offsetting Framework be approved, for the repurpose or acquisition of land or partner with other agencies to deliver carbon offsetting in the Borough of Rushcliffe; and
- b) the Director – Neighbourhoods, in conjunction with the Council's S151 Officer be delegated responsibility to implement the Carbon Offsetting Framework, in accordance with the Council's Acquisitions and Disposals Policy and Financial Regulations.

72 Revised Empty Homes Strategy 2024-2029

The Cabinet Portfolio Holder for Planning and Housing, Councillor Upton presented the report of the Director – Neighbourhoods, which detailed the revised Empty Homes Strategy for 2024-2029.

Councillor Upton stated that in 2019, Cabinet had approved the Council's first Empty Homes Strategy, which was now due for renewal. Cabinet noted that in December 2023, there were 889 empty homes in the Borough, of which 498 had been empty for over six months or more. Councillor Upton felt that given the acute need for housing, this situation was both morally and economically wrong, and referred to the detrimental effect that empty homes could have on local residents and neighbourhoods.

Councillor Upton confirmed that the Communities Scrutiny Group reviewed the Strategy in July 2023, and had been very supportive. Since 2019, procedures and protocols had been developed and relationships forged with various agencies to help to get empty properties back into use. One particular success had been the development of a specific web page providing advice and information, together with the development of an empty homes database.

Councillor Upton concluded by advising that the Strategy was working well, with 74 long term empty properties brought back into use through active intervention by this Council, and during the same period, a further 2,400 other properties had been brought back into use, with the Council's advice and support.

In seconding the recommendation, Councillor J Wheeler welcomed the report and referred to the importance of getting empty homes back into use, and the blight that they caused to neighbourhoods. Councillor Wheeler referred to the advice and support that was available and asked residents to report potential empty properties to the Council.

It was RESOLVED that:

- a) the revised Empty Homes Strategy 2024-2029 be approved; and
- b) the Director – Neighbourhoods be authorised to make minor revisions to the Strategy during its lifespan in accordance with the Constitution.

73 Review of Smoke Control Areas

Having declared an interest, Councillor Brennan took no part in the debate and voting on this item.

The Cabinet Portfolio Holder for Environment and Safety, Councillor Inglis presented the report of the Director – Neighbourhoods, which detailed the review of the Smoke Control Areas.

Councillor Inglis stated that in 2022, the Government proposed a new legally binding target to reduce levels by 2040, focusing on reducing the concentrations of fine particulate matter (PM2.5), which caused the most harm to human health, and that the national Air Quality Strategy expected all local authorities to effectively use their new powers to reduce PM2.5 emissions from sources within their control.

Councillor Inglis confirmed that the Communities Scrutiny Group considered a report in October 2023, outlining a public consultation on revised Smoke Control Areas within the Borough, with four options. The Group chose the option to revoke the existing Smoke Control Orders and sought to declare the whole Borough as a Smoke Control Area, as defined in the Environment Act 2021. A public consultation was held, with 80% of the 1,206 responders in disagreement with the option to extend the current Smoke Control Area to cover the whole Borough, with the reasons detailed in paragraph 4.6 of the report. Cabinet noted that the main reasons provided by the 20% of respondents who did agree with the proposal were the need to improve air quality, health reasons and quality of life.

Councillor Inglis stated that the Council had listened to those concerns, balancing them with the positive responses and the requirements of the Act and was proposing that any decision to change the current Smoke Control Areas should be postponed for a further two years, to allow for a public awareness campaign and for people to start making plans and changes that would be required in the future. It was acknowledged that the Council was at risk of criticism from DEFRA; however, Rushcliffe was largely rural, outside of the current zone, with any risk to public health greatly diminished given the highest risk was in areas of poor deprivation and high urban density. Councillor Inglis concluded by thanking residents who had responded to the consultation and trusted that they were assured that their concerns and opinions had all been considered.

In seconding the recommendation, Councillor J Wheeler thanked all those who had responded to the consultation and stated that the Council had recognised that this was not the right time to change current arrangements. The Council would need to work with residents living in rural areas, to see how they could

be helped and it was important to recognise the differing needs of those communities and that some could not afford to change things at the moment.

The Leader agreed that it had been helpful to have a large response from the consultation and that the recommendation reflected the majority view of those residents.

Councillor Upton stated that the recommendation allowed time for reflection and to consult again. He referred to the diversity of the Borough, that one option might not be suitable for all and a compromise might be required.

It was RESOLVED that:

- a) the existing Smoke Control Area coverage remains unchanged for a period of two years, at which time it will be reviewed; and
- b) the development and delivery of a public awareness campaign around domestic burning be approved.

The meeting closed at 7.57 pm.

CHAIR