

**MINUTES
OF THE MEETING OF THE
GROWTH AND DEVELOPMENT SCRUTINY GROUP
WEDNESDAY, 3 JANUARY 2024**

Held at 6.30 pm in the Council Chamber, Rushcliffe Arena, Rugby Road, West
Bridgford

and live streamed on [Rushcliffe Borough Council's YouTube channel](#)

PRESENT:

Councillors R Walker (Chair), L Way (Vice-Chair), R Butler, K Chewings,
J Cottee, S Dellar, C Grocock and P Matthews and A Phillips

ALSO IN ATTENDANCE:

R Waddell	Greenbelt
A Ralph	Greenbelt
C Smith	Nottinghamshire County Council

OFFICERS IN ATTENDANCE:

L Ashmore	Director of Development and Economic Growth
C Evans	Service Manager - Economic Growth and Property
C Prendergast	Corporate and Commercial Projects Officer
R Mapletoft	Planning Policy Manager
E Richardson	Democratic Services Officer

APOLOGIES:

Councillors D Soloman

12 Declarations of Interest

There were no declarations of interest.

13 Minutes of the Meeting held on 4 October 2023

The minutes of the meeting held on 4 October 2023 were approved as a true record and were signed by the Chair.

14 Management of Open Spaces

The Corporate and Commercial Projects Officer presented an update to the Group about Management of Open Spaces on New Developments

The Corporate and Commercial Projects Officer said that prior to 2000 the Council had adopted all open spaces with no cost to developers, that between 2000 to 2011 the Council had adopted open spaces with a commuted sum from developers and, that from 2011 it no longer adopted open spaces, with developers being required to submit an open spaces management scheme as part of their planning application. She said the Council's current approach was the one most commonly taken by local authorities.

The Corporate and Commercial Projects Officer highlighted some of the main concerns raised by residents about management company practices, including in relation to transparency and fairness with a lack of awareness of fees and billing; quality of maintenance work and; poor customer service with no right to challenge or hold the management company to account. She said that some management companies included clauses that allowed residents to take over management of their open spaces.

In relation to national activity, the Corporate and Commercial Projects Officer referred to the Leasehold and Freehold Reform Bill which was introduced to Parliament in November 2023 and on which it was due to report by 1 February 2024. She explained that key aspects of the Bill were that it would likely grant leaseholders the same rights as freeholders and would also create a New Homes Quality Board and Code, which would require developers to provide clear and accurate information about management services and charges and ensure that buyers knew that they should appoint an independent legal adviser.

The Corporate and Commercial Projects Officer explained that while the Council had limited powers, it could act as a facilitator and encourage good practice and build closer relationships with developers at an earlier stage in the process, inviting them to attend the Council's Growth Boards (for example Fairham and Bingham) and support residents' groups in making contact with management companies. The Council would also explore development of a Good Practice Code.

Mr Wadell from Greenbelt presented an update to the Group about Greenbelt Management Company. He said that the company had been operating for 25 years in the UK and originated from Strathclyde Council in the mid-1990s, ultimately becoming fully autonomous. The company had evolved over time to take on new work and bring in new specialists as open spaces became more complex, including amenity spaces, sustainable urban drainage features and biodiversity net gain commitments. He said that the company initially funded adopting sites through commuted sums from developers but due to the increased complexity of spaces it had moved to requiring residents to pay management fees.

Mr Wadell explained that Greenbelt had a standard form of agreement with developers that could be flexed to suit particular sites and that the company predominantly took ownership, or a long lease, for sites. He said that the company looked to implement long term plans, including ecological plans, for sites allowing it opportunity to get to know residents. He said that Greenbelt had built in the right for residents to end their arrangement with the company and take control of management, through 'consumer options' if they wished and that this would be built in as a legal right in the future.

The Chair asked for more information about residents opting out of management service contracts. Mr Wadell explained that developers went out to tender and appointed the company to manage the open spaces on a site and that once all houses had been sold, ownership for that site was transferred to that company. Greenbelt were able to start engaging with residents and

managing open spaces on a site earlier through a lease agreement with the developer.

Mr Wadell said that Greenbelt give residents on their sites the option to self-manage their open spaces, as long as certain criteria were met, for example that they had a 51% majority and that the local planning authority had given consent and that outstanding debt had been recovered.

Councillor Way asked a number of questions, including about the definition of open spaces and transparency about services and fees. She said that many residents were unaware of much of what was covered, including that they could receive charges for future matters such as fly-tipping, and as such it was having a financial and emotion toll on them. Mr Wadell said that Greenbelt had a 97% payment rate but was aware that some residents were struggling to pay. He said that Greenbelt had a duty to maintain the open spaces and as it needed residents to make payments to do this, it tried to keep charges reasonable. He said that there would be some non-routine costs, such as for storm damage and vandalism, which could not be predicted for which it tried to spread the costs to soften payments.

Mr Wadell said that the company wanted to work with residents and maintain a good relationship with them and would work with residents to find solutions where possible.

Councillor Way referred to responsibility for ensuring that residents understood about fees and services and Mr Ralph said that a management company could not control what information was provided to residents at the point of sale, but that Greenbelt tried to ensure that developer sales teams provided as much information as possible. He thought that buyers taking independent legal advice would help provide this scrutiny. The Director of Development and Economic Growth said that the Council was looking at engaging with developers regarding the sharing of information with prospective buyers to ensure that it was communicated prominently to allow buyers to make informed decisions.

Councillor Butler referred to additional levies for one-off occurrences such as storm damage, in addition to Council Tax, and fees for facilities used by people not on the estate and noted how this could be seen as unfair by residents. The Director of Development and Economic Growth said that Government led changes in requirements for open spaces on housing estates had increased over the years, from being small parcels of land to becoming more complex spaces, and as such the Council could no longer afford to maintain them. She understood the perception of unfairness across older and newer estates and said that finding an equitable solution was challenging.

In relation to unexpected charges, Mr Ralph said that there was the option of creating a sink fund to cover such expenses but this came with difficulties, for example if not spent how would residents selling their property be reimbursed.

Councillor Grocock asked about the relationship between the Council and management companies, having greater transparency and governance, the possibility of the Council having a preferred management company and

whether other bodies such as town and parish councils could adopt open spaces.

The Corporate and Commercial Projects Officer referred to appendix B of the report which set out the Council's proposals for how it could take a more active role and develop relationships. She confirmed that the Council did not have a role in appointing a management company and so could not determine who would be appointed but that developing a good practice code could set out the Council's expectations. She said that the Council could only require that the developer appoint an appropriate body to carry out management, not which body, but that this could be a town or parish council if they had the skills and expertise and the developer chose to appoint them.

Councillor Chewings asked why the Council had moved away from managing open spaces in 2011 and whether the Council could return to doing so if it were to receive SUDS monies. He wondered what other local authorities did.

The Director of Development and Economic Growth said that a reason for the change in practice was due to developers not wanting to pay large, commuted, sums upfront to the to cover the next 15 years, but rather were choosing to spread it annually per dwelling. She said that it was for the developer to choose how they funded the work. She said that the Council would also need to consider how the maintenance would be funded after the 15 years.

The Director of Development and Economic Growth said that if a developer did not wish to pay S106 monies then it may withhold transferring ownership of an open space to the Council. She said the Council could investigate whether it could enforce a developer to pay a commuted sum. She said that the Council had looked at how other local authorities approached this matter and it was not aware of any who had taken management in-house. The Corporate and Commercial Projects Officer referred to the only related practice the Council was aware of being by Stratford on Avon Council developing a policy around them exploring taking over management if their town and parish councils were unable to do so.

Councillor Matthews asked how many management companies there were in Rushcliffe, whether the Council was mandating the creation of these open spaces through its planning process and whether it would be possible to change the Council Tax banding for the estate housing to increase income.

The Director of Development and Economic Growth said that the Council only retained 7% of the Council Tax levy and so to raise sufficient funds would require a significant increase, above that allowed by Government. She said that the Council did not control Council Tax banding levels for houses which was carried out by the valuation office. She said that the Council was currently compiling a list of all management companies within the Borough.

The Chair referred the Group to actions in Appendix B of the report. In relation to the SPD, the Planning Policy Manager said that it would cover a wide range of matters including open spaces and whilst the Council may not be able to mandate what developers did, it would set out best practice and the expectations of the Council.

Councillor Way referred to a proposal before Cabinet in 2021 to create an SPD. She asked whether the Council could give consideration to suggestions from this Group, including the possibility of estates sharing facilities, for example adjoining estates sharing a play area rather than having one each, encouraging cooperation and a more holistic approach. The Planning Policy Manager said that in the sequence of developing planning documentations that SPD hadn't taken place as yet and said that only matters covered by the Local Plan could be included in the SPD but that aspects outside of it could be included in other guidance.

Councillor Grocock suggested that the Council use robust and specific language in its documentation and use its influence to encourage best practice. The Director of Development and Economic Growth said that that was what the Council wanted to achieve through a Good Practice Guide.

The Chair referred to section 4.11 of the NPPF regarding use of conditions and suggested that the Council seek external advice about how it could be most robust.

The Chair referred to the Good Practice Guide development and noted that it was developers and not management companies who signed up to NHQC. The Director of Development and Economic Growth said that the Leasehold and Freehold Reform Bill would give leaseholders the same rights as freeholders, giving them a right to redress. She said that the Council could include reference to management companies' complaints procedures in the Good Practice Guide and confirmed that the Council would seek to use strong and clear language. She proposed that once created, the Guide be taken to the Local Development Framework Group for scrutiny as per other planning policy documentation

Mr Ralph said that a stewardship framework was being developed by Building with Nature, which while voluntary was envisioned that quality, open space green infrastructure management companies would sign up to. He said that Greenbelt had been heavily involved in contributing to the framework. Mr Wardell added that Scotland had introduced a Property Factors Act for open spaces management which set out a suite of standards and which required management companies to create a written statement of service for their residents. He said that Greenbelt had applied their written statement of service to all of their sites across the UK even though it was not required to do so in England and Wales.

The Chair referred to the proposed advocacy role by the Council. The Director of Development and Economic Growth said that the Council recognised that there were pockets of residents on some estates who were dissatisfied with the services and that the Council would focus attention there initially, in making introductions between residents and management companies where these weren't taking place.

Councillor Way suggested inviting residents to attend the Growth Board meetings and the Director of Development and Economic Growth noted that the Growth Boards covered a wide remit of matters and suggested that a forum

outside of those constraints would be more beneficial to bring related parties together.

The Chair asked for clarification on the role of the Council. The Director of Development and Economic Growth said initial work would be to set out terms of reference in relation to the role of the Council, with the Council looking to facilitate initial introductions between residents and management companies and encourage management companies to sign up to the Code and encourage best practice. She said that the Council would not act as an arbitrator between parties.

Councillor Chewings proposed that recommendations a, c, d, and e be retained and that recommendation b be removed, due to further financial scope work being required. He proposed that three additional recommendations be added, as set out below:

- f) Investigate the legal position on whether a commuted sum to cover maintenance for 15 years could be legally enforced by Rushcliffe Borough Council
- g) Investigate the work carried out by Stratford on Avon District Council and invite a guest speaker from the District Council to attend a Growth and Development Scrutiny Group meeting
- h) Provide a detailed forecast for revenues received by Rushcliffe Borough Council from an example development (for example Fairham) over the 15 year period.

The proposals were seconded by Councillor Grocock.

Councillor Grocock said that he would wish to have more information relating to the gap between the Council's income of £77k and estimated costs of £11m.

The Director of Development and Economic Growth explained that revenues received by the Council from Council Tax from a new development site would already be accounted for to pay for provision of existing and statutory services, such as refuse collections. She explained that additional services such as management of open spaces would require new funding stream/s.

It was RESOLVED that the Growth and Development Scrutiny Group:

- a) Acknowledges the complexities of the management of open spaces and the multiple factors at play leading to no simple solution;
- ~~b) Accepts the conclusions arrived at in section 5 regarding the financial risks to the Council in pursuing the adoption of open spaces or acting as the management company and supports the conclusion arrived at;~~
- c) Supports the proposal for the Council to take a more active role working with developers at the Planning stage to establish the Council's expectations regarding the service expected for its residents;
- d) Supports officers continuing to work through the emerging issues with developers, management companies and residents, with the aim of providing greater transparency and governance for future homeowners of new estates, whilst recognising the Council has no authority over the operation of management companies;
- e) Seeks to raise the general issues and concerns raised by residents on

- new housing estates with developers and management companies to raise the profile of the issues being experienced
- f) Investigate the legal position on whether a commuted sum to cover maintenance for 15 years could be legally enforced by Rushcliffe Borough Council
 - g) Investigate the work carried out by Stratford on Avon District Council and invite a guest speaker from the District Council to attend a Growth and Development Scrutiny Group meeting
 - h) Provide a detailed forecast for revenues received by Rushcliffe Borough Council from an example development (for example Fairham) over the 15 year period.

15 **Sewerage Infrastructure and Discharge within Rushcliffe**

The Service Manager Economic Growth and Property introduced this item and explained that it followed on from discussions at the Growth and Development Scrutiny Group in September 2022 where information had been provided by Severn Trent Water and the Environment Agency. She said that Members had expressed interest in receiving an update from Nottinghamshire County Council in their role as flood authority and as such Mr Smith was attending this meeting. Representatives from Severn Trent and the Environment Agency had also been invited to attend but unfortunately Environment Agency representatives had had to send their apologies due to commitments with the current flooding. They had said that they would be happy to attend a future meeting instead. Severn Trent may not have capacity to attend.

Mr Smith from Nottinghamshire County Council presented an update to the Group about the County Council's role as Lead Local Flood Authority (LLFA).

Mr Smith provided information about Storm Babet and said that approximately 1200 properties had been internally flooded, spread across 79 areas, with 28 properties being in Rushcliffe. He said that over 100 roads had been closed making access to affected areas difficult.

Mr Smith explained that the role of the LLFA was to coordinate flood risk management across Nottinghamshire, coordinating with the various agencies involved, including Severn Trent Water, the Environment Agency and town and parish councils. He said that the LLFA managed surface water only and was a statutory consultee on surface water only to the local planning authorities and the County planning authority for major applications. He said that it could not comment on issues such as river or sewer flooding.

Mr Smith informed the Group that the County Council maintained a register of assets that had a critical impact on flood risk in the County, such as culverts, to ensure that they were adequately maintained and it issued land drainage consents and compliance checks. He said that the County Council published and developed a Local Flood Risk Management Strategy and Action Plan and that it worked with communities to raise awareness of flood risk and support them in how to become more flood resilient. The County Council also delivered the Capital and Revenue Flood Risk Management Schemes programme

The LLFA was required to carry out a Preliminary Flood Risk Assessment

Review (PFRA) every six years and as part of the recent review it had rewritten documentation to bring it up to date, in line with current policies and to include analysis of potential future flood impacts and information about who to contact for advice about various concerns. The documentation was published in July 2023.

Mr Smith said that the County Council owned a suite of four drones for which it had seven qualified pilots and that it used them for a variety of work including to help with flood surveillance work and inspecting assets. He said that the County Council would be happy to share these resources with partner agencies where possible.

In relation to property flood resilience, Mr Smith said that the County Council had funded flood resilience solutions such as flood resistance doors and gates. To date 55 properties had had bespoke solutions installed and it hoped that 100 more would be protected in the future programme of works.

Mr Smith said that LLFA managed the Community Flood Signage Scheme which gave it the power to close roads during flood events to help reduce impacts from bow waves caused by vehicles driving through flood water. He said that there were currently 18 active schemes.

The County Council were involved with providing education sessions for schools across the County, which were targeted at years 4 and 5 and comprised hands on experiments to help raise awareness and knowledge about climate change and flooding.

The Group were informed that the County Council had bid for funding to implement natural flood management techniques in Cropwell Butler and had recently received funding to work with land owners in Gotham to implement further flood management measures.

Councillor Grocock asked whether the County Council team was linked in with the D2N2 Careers Hub and Mr Smith said that they would explore this suggestion.

Councillor Grocock referred to communication about the Community Flood Signage Scheme and Mr Smith confirmed that emails had been sent to town and parish councils with information about the scheme, that drop in sessions had been held by the team and that it was also working with County Councillors in sharing information.

Mr Smith asked Members to email the team if they were aware of any concerns or any areas which benefit from road closures or any schools that would like to receive an education session at flood.team@nottscc.gov.uk. The Service Manager Economic Growth and Property agreed to circulate Mr Smith's presentation to the Group with parish council Clerks.

The Chair noted the difficulty in identifying the different reasons for much flooding and Mr Smith suggested that people email the team about specific concerns for advice and support.

Councillor way referred to SUDS on privately managed estates. Mr Smith said that the LLFA did not currently have any authority in this matter but said that the Flood and Water Management Act 2010 contained a Schedule (3) which would make local authorities responsible for adopting SUDS in new developments, and whilst this Schedule had not been enacted as yet there were proposals for it to be enacted in the future.

Councillor Butler referred to flooding from water coming off fields and asked about influence on land owners. Mr Smith explained that there were some powers contained within the Land Drainage Act which allowed the risk management authority to serve notice if a land owner was not allowing free movement of water on their assets, however the preferred practice was to work with land owners in the first instance.

The Chair referred to recommendation b, in relation to Severn Trent and the Environment Agency being unable to attend. The Service Manager Economic Growth and Property noted suggestions from Members of the Group, including promoting flood management work with parish councils and working with the Careers Hubs that were outcomes from these discussions and said that representatives from the two agencies could be invited to attend the next Group meeting in March.

It was RESOLVED that the Growth and Development Scrutiny Group:

- a) Review the scrutiny matrix and notes of the previous meeting (21 September 2022) and ask questions of the expert witnesses
- b) Identify if there are any areas where further work or further updates are required e.g., communications or engagement between organisations.

16 **Work Programme**

The Service Manager Economic Growth and Property presented the report of the Director Finance and Corporate Services, which detailed the proposed Growth and Development Scrutiny Group Work Programme for 2023/24. She confirmed that representatives from Severn Trent and the Environment Agency would be invited to attend the next meeting in March 2024.

Members of the Group suggested future scrutiny items of an update on Development of the Economic Growth Strategy and an update on Management of Open Spaces, subject to matrices being submitted to and approved by the Corporate Overview Group.

It was RESOLVED that the Work programme detailed below be approved by the Growth and Development Scrutiny Group:

6 March 2024

- Connectivity and Communications
- Sewerage Infrastructure and Discharge within Rushcliffe
- Work Programme

Xx July 2024

- Review of the Crematorium

- Work Programme

Xx October 2024

- Infrastructure Delivery
- Work Programme

Action Table 3 January 2024

Min No.	Action	Officer Responsible
15	Completed - circulate the presentation to town and parish council Clerks.	The Service Manager Economic Growth and Property has shared the presentation with Clerks

The meeting closed at 9.11 pm.

CHAIR