



Council – 26 March 2020

## Councillors' Questions

### Part A – Supplementaries

1	<p><b>Councillors Mike Day, Mary Jones &amp; Susan Jones</b></p> <p>We are sure that the Cabinet Members are as disappointed with the findings of the multi-agency, Probation-led inspection of the Western Bay YOS last year. The service, covering Swansea, Neath Port Talbot and Bridgend, was deemed inadequate. Can Councillors be told what actions have been and are being taken, to address the shortcomings identified in this important service for our young people.</p> <p><b>Response of the Cabinet Member for Children Services</b></p> <p>The Improvement and action plan developed to track progress, has been updated for March's YJB. Of the 32 areas identified for improvement, 27 have achieved a green rag status, with required actions completed or on track, with 5 achieving an amber status.</p> <p>Key areas for improvement identified at the time of inspection were</p> <ul style="list-style-type: none"><li>• Governance arrangements - the Board's understanding of the service and ability to monitor the quality of provision.</li><li>• Safeguarding practice.</li><li>• Staff culture, supervision and support.</li><li>• Narrow range of performance information made available to the Board.</li></ul> <p>Summary of improvements</p> <p>Green status – Key themes</p> <ul style="list-style-type: none"><li>• A partner in practice was identified in June 2019 - Wrexham YJB who are supporting service development.</li><li>• Practice around safeguarding activity and risk management, including CSE has seen improvement with support from Wrexham and quality assurance processes put in place. Escalating concerns mechanisms are in place.</li><li>• Internal supervision processes to support the improvement journey are in place, and performance reported to the Board. This also includes caseload information.</li><li>• An induction process is in place for staff and Board members and a training and development plan in place to support the needs of individual workers and the service. A whole service development day took place on 07/02/2020.</li><li>• Service mapping and analysis is underway to better understand the needs of service users and to ensure interventions are delivered specific to meeting need; this is supported, by the youth justice</li></ul>
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	<p>participation group, which requires embedding. Positive feedback has been received from service users and a new range of programmes/interventions developed.</p> <ul style="list-style-type: none"> <li>• Positive relationships with education partners are being built, specifically with the PRU and joint packages are being developed to ensure CYP are receiving an education offer. Work is in progress to identify CYP who are at risk of NEET and provide interventions to prevent this occurring.</li> <li>• Policies and procedures are under review and clear eligibility criteria are being developed – a concern from inspection. One of the criteria provides confirmation that YOT only work with CYP aged 10-18 years.</li> <li>• The quality of assessments was cause for concern and training and development of staff has resulted in improvements within this area. This includes asset plus assessments being undertaken on all cases, including out of Court disposals.</li> <li>• A new management Board is in place to oversee improvements as governance was identified as a cause of concern. The Board meets bimonthly, and induction sessions were offered in September and October 2020.</li> <li>• Support from a dedicated speech and language service is in place and service users are able to access a CAMHS nurse 2.5 days a week.</li> </ul> <p>Amber status – key themes</p> <ul style="list-style-type: none"> <li>• Development of a new performance framework – this will enable more robust oversight by Board members.</li> <li>• Information sharing protocols are under development.</li> <li>• A literacy and numeracy strategy is under development with a completion date of March 2020. This will support CYP to develop skills to improve their chance of a future free from offending.</li> </ul>
2	<p><b>Councillors Mary Jones, Mike Day &amp; Jeff Jones</b></p> <p>In light of the recent delay in appointing/reappointing LA Governors will the Cabinet Member agree to review this whole process.</p> <p><b>Response of the Cabinet Member for Education Improvement, Learning &amp; Skills</b></p> <p>Current delays in the process of appointing local authority (LA) governors arise for a number of reasons which include inability of applicants to identify skills required, delays in responses from headteachers and chairs despite regular reminders, skills matrices not be available or recently completed and delays in submitting forms for reappointment when term end dates are nearing. In addition to this, the requirement to meet deadlines for circulation of papers and the need to produce a report for Cabinet and subsequent approval processes mean an LA governor appointment can take a number of months.</p> <p>The School and Governor Team send regular reminders to headteachers, clerks and chairs during the appointment process. They also send sample skills matrices and reminders that these need to be completed. Recruitment campaigns have had limited success and tend to attract parents or those with previous education experience. The team are continuing to try new approaches to recruitment and have established a working group to review the administration of the process and to see if it can be improved. The School and</p>

	<p>Governor Team are also exploring options for improved communications with governors and governing bodies which can be used to provide regular reminders on the appointment process. There have also been some issues with capacity in the School and Governor Team which we are working to resolve and may help.</p>
	<p><b>Part B – No Supplementaries</b></p>
<p>3</p>	<p><b>Councillors Peter May &amp; Irene Mann</b></p> <p>Recently the High Court rejected Swansea Council’s application to appeal the Planning Inspectorate’s decision to grant permission for an HMO at 1 Montpelier Terrace in the Uplands Ward. It was reported that the council was also ordered to pay £2,807 costs to the Welsh Government.</p> <ol style="list-style-type: none"> <li>a. What was the total cost of the proceedings to the council (i.e. application fees and lawyers’ time to prepare and present the case).</li> <li>b. What was the total amount paid to Lichfield’s, the planning consultants based in Cardiff for the time in formulating the HMO policy H9.</li> <li>c. From which budgets were the costs in a and b above funded.</li> </ol> <p><b>Response of the Cabinet Member for Delivery &amp; Performance</b></p> <ol style="list-style-type: none"> <li>a. The total cost to the Council in taking Statutory Review proceedings against the Planning Inspectorate decision to grant Planning Permission for the HMO at 1 Montpelier Terrace is <b>£5783.00</b>. This total cost is broken down as follows: <ol style="list-style-type: none"> <li>i) Court Fee £528.00, ii) External Legal advice £2448.00, iii) Welsh Government Legal Costs £2807.00</li> </ol> <p>In addition, 8 hours legal officers time were spent preparing the case.</p> </li> <li>b. The answer to this question is the same as that given to the question submitted by Councillors Mann and May for the June 2018 Council Meeting, as follows: <p>Litchfields were originally commissioned in September 2016 for a fee of £24,950 to produce a comprehensive planning strategy and policy framework for determining planning applications for HMOs and purpose built student accommodation developments in Swansea, including the following key tasks: undertake extensive evidence base review, stakeholder engagement, public consultation exercise, production of draft and final versions of supplementary planning guidance (SPG), and attend multiple meeting including Planning Committee. This work commission ended on July 2017, when Members of the Council’s Planning Committee resolved not to adopt the final version of the SPG that had been produced.</p> <p>Litchfields were subsequently re-commissioned in September 2017 for a fee of £15,000 to undertake further work that was necessary having regard to the resolutions of the July 2017 Planning Committee, including: a further review of the evidence, data analysis and testing, additional stakeholder engagement, consideration of the impact of imposing different HMO threshold limits (including the impact of introducing a 15% threshold in certain areas); assessing the potential for</p> </li> </ol>

introducing a policy approach that precludes 'sandwiching' of non-HMO properties by HMOs, and the production of revised recommendations for new SPG/planning policy on the issue of HMOs and purpose built student accommodation.

- c. The costs incurred were met from the Council's Planning and City Regeneration budget.

4 **Councillors Peter May & Irene Mann**

The recent delegated planning decision to reject an HMO for 1 Montpelier Terrace was overturned by the Planning Inspectorate. The council's application to review the Planning Inspectorate's overturn was subsequently rejected by the High Court.

The Planning Inspector in his decision made it clear that he was satisfied that HMO planning permission could be granted as an exceptional circumstance as it had been unsuccessfully marketed as a C3 family dwelling for more than 6 months.

Since this ruling there have been 2 applications for HMOs in the Uplands Ward which are openly citing this 6 month rule to support their case. The first is 2020/0127 (17 Waterloo Place) which provides an estate agents letter on the public file confirming that the property has been marketed for "just over 6 months". The second is a resubmission of (2019/1861/FUL), 42 Cambridge Street which was rejected on 7<sup>th</sup> October 2019. This resubmission also has correspondence from an estate agent relying on the 6 month rule. We await the council's determination of these applications with interest.

Later this year the LDP will have its first statutory Annual Monitoring Review.

- a. It is important that when a planning decision is made in Swansea, it stays in Swansea. Does this review accommodate provision to modify a policy with a weakness if the application of it is being overturned on appeal?
- b. What changes are the council considering making to policy H9 to make it robust and defensible at appeal in the future?

**Response of the Cabinet Member for Delivery & Performance**

- a. Following the adoption of the Swansea LDP in February 2019 the Council now has in place the most prescriptive and restrictive policy on HMOs in Wales. **Since the LDP was adopted there have been 82 planning applications submitted to establish HMOs, of which 33 have been refused planning permission and/or found unlawful having regard to the new LDP policies.** Since LDP adoption, within the HMO Management Area only 2 appeals have been allowed, as described below. There was also an appeal dismissed [Ref 2019/0076/FUL, **Rhyddings Terrace, Brynmill**]
- b. In the first appeal allowed [**Ref 2019/0148/FUL 91 Brynymor Road**] the Council had refused the application as it would give rise to nearly 50% of HMOs within the immediate area. The appeal Inspector concluded however that although the proposal would breach the HMO maximum concentration threshold of 25% and would be contrary to LDP policy, she considered the

circumstances of the individual case meant that an exception was justified. She found that the property being on the upper floors of a commercial building, in the heart of a mixed use commercial area, meant that the characteristics of the property and its location are inherently suitable for an HMO use rather than family home. In the second appeal allowed [**2019/0466/FUL 1 Montpelier Terrace Mount Pleasant**], the Council had refused planning permission as it would result in 'sandwiching' the adjoining property between two HMOs. The appeal inspector concluded however that, notwithstanding the sandwiching that would occur, there were in his view 'exceptional circumstances' that apply to render the proposal acceptable. The Council applied to have this decision reviewed by the High Court as it considered the inspector had misapplied the LDP policy on a point of detail. The High Court decision however was that, whilst it was possible the Inspector may have misapplied the policy, the judge did not need to reach a formal judgement on that because he was of the view that in any event the inspector was entitled to consider other material considerations outside LDP policy requirements to reach a conclusion on the appeal, and therefore the judge considered the inspector would have reached the same decision in any event. For that reason the judge refused the Council's application for the decision to be overturned. Going forward the Planning Authority has reminded the Planning Inspectorate that, if an inspector is minded to allow a HMO proposal that would lead to sandwiching because of what they consider are overriding material considerations that apply, they must make that decision whilst clearly acknowledging it would be a departure to the adopted LDP policy.

In summary, in both of the aforementioned cases the appointed inspectors allowed the appeals on the basis of site specific circumstances and other material considerations that they considered were overriding to warrant a departure from the adopted LDP policy. Inspectors have always been allowed to do this within the provisions of planning legislation, and this will continue to be the case. This can be a frustration for Local Authorities that make local decisions in line with adopted policies, in the interests of local communities.

Whilst the Council's restrictive adopted development plan on HMOs will continue to be the starting point for planning decision making, inspectors can continue to consider other factors that they consider fit depending on the circumstances of an individual case, and as long as this aligns with national guidance.

The LDP Annual Monitoring Report to be published later in 2020. This Report will include a measurement having regard to LDP Monitoring Indicator No. 10 which measures the proportion of HMOs within the Castle and Uplands Wards, having regard to the overall numbers of registered HMO properties as a proportion of the residential properties. The policy target is to ensure the number of HMOs as a proportion of the total number of residential properties within the HMO Management Area does not significantly exceed the 25% threshold. The trigger point for further investigation/review of the policy that is specified in the LDP is that the average concentration of HMO's within the LSOAs of the HMO Management Area either reduces or increases by +/- 2% from the base level, which is currently around 25%. The trigger point is not related to the outcome of appeal decisions.

	<p>b. Given the above it is clear that changing adopted Council policy (e.g. to try and make the restrictions even tighter) would be neither appropriate nor productive, There is no recognised flaw or weakness in the LDP policy and in fact the records clearly show a significant increase in the number of applications for HMOs being refused since LDP adoption. Rather, the outcome of the appeals that are referenced above are a product of the retained right of individual planning inspectors to consider other material circumstances outside the Council’s restrictive adopted LDP policy, where that Inspector sees fit in order to determine an appeal.</p>
5	<p><b>Councillors Chris Holley, Jeff Jones &amp; Wendy Fitzgerald</b></p> <p>Will the Cabinet Member tell Council what was the net result of the sale of the two former school buildings at Felindre and Craigeffnparc including the costs of auctioneers fees and any other associated costs incurred.</p> <p><b>Response of the Cabinet Member for Delivery &amp; Performance</b></p> <p>Both schools are now under offer of sale; Felindre at £150,000, Craig Cefn Parc at £142,000. The sales cost the council nothing as all Council costs fees are recovered by way of a “buyer’s premium” paid by the purchaser</p>