

**COMMUNITY OVERVIEW AND SCRUTINY PANEL  
29 November 2016**

**PRESENT:** Councillor Michael Weinhonig - Chairman; Councillor Nigel Hedges - Vice-Chairman; Councillors Jackie Edwards, Cheryl Johnson, Andy Jones, Anne Rey, Nick Rose, Allister Russell, Philip Stanley-Watts

**ALSO PRESENT:** Councillor Blair Crawford - Cabinet Member for Adult Social Care; Councillor Jane Kelly - Cabinet Member for Regeneration and Public Health; Councillor Robert Lawton - Cabinet Member for Housing; Councillor David Smith - Cabinet Member for Planning and Environment; Councillors Stephen Bartlett, Simon Bull, David d'Orton-Gibson, Bobbie Dove, Laurence Fear, Gina Mackin, Donald McQueen, Andrew Morgan, Susan Phillips, John Trickett

**ALSO ATTENDING:**

Jane Portman	Deputy Chief Executive and Executive Director, Adults and Children
Tanya Coulter	Monitoring Officer and Service Director, Legal and Democratic
Gary Josey	Service Director, Housing and Communities
Kelly Ansell	Head of Housing and Community Enforcement

The meeting commenced at 6:00p.m.

To see a copy of the public reports that were considered by the Panel and to listen to the Council's audio recording of this meeting please visit:

<http://www.bournemouth.gov.uk/councildemocratic/CouncilMeetings/CommitteeMeetings/CommunityOverviewScrutinyPanel/2016/11/29/communityoverviewandscrutinypanel29-nov-2016.aspx>

**SECTION I - BUSINESS RECOMMENDED TO THE COUNCIL**

No items

**SECTION II - BUSINESS DECIDED UNDER DELEGATED POWERS**

**42. APOLOGIES**

Apologies were received from panel member Councillor Roger Marley, and Councillors John Beesley and Ian Clark.

**43. SUBSTITUTE MEMBERS**

Councillor Philip Stanley-Watts replaced Councillor Marley for this meeting of the Panel.

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### 44. DECLARATIONS OF INTEREST

Councillor Jackie Edwards declared a disclosable pecuniary interest in the main agenda item on selective licensing in that she had two properties which she rented out in the Town Centre. While selective licensing was not yet being discussed for this area she had regard to the guidance issued by the Monitoring Officer and would not discuss or vote on the item. She left the table after making her declaration and sat in the public gallery.

### 45. PUBLIC ISSUES

The Panel noted that although a public question had been received it was not within the scope of the agenda item being considered and the person submitting the question had been advised of this.

There were no deputations or petitions.

### 46. CALL IN OF CABINET DECISION TO APPROVE COMMENCEMENT OF PUBLIC CONSULTATION ON A SELECTIVE LICENSING SCHEME WITHIN BOSCOMBE, EAST CLIFF AND SPRINGBOURNE

The Chairman welcomed everyone and gave a reminder about conduct and treating each other with respect. He asked the Monitoring Officer to outline the procedure for the meeting.

The Monitoring Officer explained that the basis of the call in related to the principles of decision making as set out in Article 13 of the Council's Constitution, a copy of which had been circulated to members for ease of reference. The role of the Panel was to consider whether or not the decision of the Cabinet on 9 November 2016 to approve the commencement of a public consultation on a selective licensing scheme had complied with Article 13. It was not the Panel's role to consider the merits of the scheme or the consultation.

The Monitoring Officer outlined the order of proceedings which had been agreed with the Chairman:

- Councillor Nick Rose to speak to his reasons for calling in the decision
- Officers to respond to points raised in the call in request
- Cabinet member(s) to comment on the decision made by Cabinet
- Panel members to ask questions, discuss and form recommendation.

Prior to Councillor Rose presenting his evidence he raised a point of order with the Chairman on the disclosure of pecuniary interests, asking that the Panel meeting be deferred until the Monitoring Officer confirmed in writing that members renting properties outside the proposed geographical area of the scheme be deemed not to have a DPI and could therefore participate. The Chairman dismissed the point of order on the grounds that this matter had already been dealt with and every assistance had been provided to members in respect of interests.

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Councillor Rose took the Panel through his reasons and supporting evidence for considering that the Cabinet had not followed the principles of decision making. His points were set out in detail on his call-in request form which had been published with the agenda at 'A'. His main concerns related to the Council not following its own consultation process by not presenting a business case or detailed financial information at this stage, issues regarding the Council's moral commitment to an unviable scheme, predetermination and the apparent lack of alternative options considered.

Councillor Rose had also prepared a series of questions in relation to each objection which he was advised to ask at the 'panel questioning' stage of the proceedings.

The Monitoring Officer provided advice to the Panel on the legalities of the decision making process. She assured members that the Cabinet had made its decision lawfully and had been presented with sufficient information with which to act. The Council's Legal Services had been engaged in the preparation of the proposal up until now and would continue to be involved to ensure that the consultation process and any subsequent proposal was lawful. The action was proportionate to what the Council wanted to happen which at this point was to consult the public not make a final decision. The decision had also complied with the Council's Constitution by being published on the Cabinet Forward Plan and by being within the Council's Key Policy Framework and Budget Framework.

The Deputy Chief Executive provided a statement on behalf of the Section 151 Officer (the Council's Chief Finance Officer) which advised members on the financial issues raised in the call in. This included clarification on the purpose and content of a business case, specifically addressing the extent to which financial information may or may not be required. The Panel was assured that resources were within the revenue budget to cover the costs of the proposal up until the end of the consultation process. Any decision regarding the value or legality of a loan proposal would only be considered after the consultation, if the Cabinet wished to progress the scheme. As reported to Cabinet the costs of running the scheme and the use of licence income would be set out in the consultation document - but the assumption in the Council's Medium Term Financial Plan was a net nil position with income matching expenditure.

The Head of Housing and Community Enforcement provided advice to the Panel on the remaining aspects of the call in not addressed in the statements of the Monitoring Officer or Section 151 Officer, as follows:

- The Cabinet report itself was the business case which had been developed with a member working group from May 2016
- Paragraphs 29 - 31 of the Cabinet report set out the principles around licence fees and made it clear that financial modelling had taken place. Detailed financial modelling, the proposed fee structure and the costs of implementation would form key parts of the consultation.
- Details of the consultation plan were included in paragraphs 32 - 38 of the Cabinet report.

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- The consultation did not equate to a ‘moral commitment’ to the scheme as this would suggest predetermination which the Council was very clear to avoid.
- The offer of a loan had not been taken up at this stage. Set up costs could be legitimately recovered from fee income if approved
- As stated in paragraph 10 alternative options had been considered including the option of not consulting. However, the consultation would enable those potentially affected by selective licensing to respond and this could lead to alternative ideas and proposals being presented.

She reminded the Panel that the Cabinet had been asked to approve a consultation not a final scheme. There were various elements of legislation and guidance which would need to be satisfied before the Council was able to progress further.

The Cabinet Member for Housing supported the responses provided to the Panel and explained that the purpose of the decision was to open up the debate on selective licensing and hear people’s views on the proposals. The Cabinet Member for Regeneration and Public Health explained that she was convinced that the information presented to Cabinet was acceptable and complete.

Members of the Panel asked questions of all parties, and the following main points were raised:

- Councillor Rose confirmed he had been able to ask questions at the Cabinet meeting although not as many as he would have liked.
- The Cabinet Member for Housing explained that he was very familiar with consultations and business cases through his experience in public service and in the private sector. He was totally satisfied that the business case in this instance was viable and complete.
- Alternative options were set out in the consultation document and had been considered by the member working group. These included addressing the issues through Operation Galaxy, targeted inspection work, and plans to extend mandatory licensing.
- The question of how a business case was presented had been addressed in the statement of the Section 151 Officer. The business case should be assessed on the sufficiency of information provided rather than the format in which it was written.
- The business case referred to in the minutes of the Boscombe Regeneration Partnership Board was not a Council document and did not have the same requirements or considerations.
- Questions about financial risks, the costs v benefits of the scheme, and the lawful use of funds were not relevant at this stage, they would be addressed in the consultation and fully considered as part of the report back to Cabinet.
- In response to comments about predetermination and proceeding with selective licensing regardless of the consultation results the Panel was

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- referred again to the statement of the Section 151 Officer, that ‘any decision around the value/legality of taking out such a loan opportunity will only be considered once the consultation process is completed as part of the report to consider if the Council still wishes to proceed. The Council was not responsible for the intentions expressed by an external body and how these were minuted.
- The Monitoring Officer was not aware of any loan agreement or commitment and the Section 151 Officer would have advised had this been the case.
- The number of ‘rogue landlords’ was a matter for the consultation process, as part of the evidence when considering whether a scheme was necessary, appropriate and proportionate. The issue of rogue landlords was only one of a number of objectives of a selective licensing scheme. The Council had analysed the evidence in accordance with the requirements of the Housing Act 2004 and considered that consultation was an appropriate course of action at this stage in the process.

Having considered the written and verbal evidence the Panel was asked to decide what action to take in respect of the call in. The majority of members felt that the points made in the call in had been addressed, including the issues about financial information. Some of the questions raised would be dealt with as part of the consultation, and the outcomes would be reported back to Cabinet for further consideration. The Council was following normal procedure in how it was dealing with the consultation. The Cabinet had been provided with sufficient information to make its decision to approve the consultation and had acted properly in accordance with the advice of its professional officers.

Councillor Rose maintained his view that there was a lack of detailed financial information provided in a business case for selective licensing, which he felt should have been available when considering a decision to consult. The Cabinet Member for Housing refuted this suggestion and stated again that there had been enough financial information provided for the Cabinet to make a decision.

### **DECISION MADE:**

That the decision taken by the Cabinet on 9 November 2016 to approve a consultation on a selective licensing scheme was made in accordance with the principles of decision making set out in Article 13 of the Council’s Constitution and does not need to be reconsidered. Accordingly, no further action is required on the call-in notice and the decision can be implemented.

The meeting closed at 6.55pm