



**REPORT of  
THE OVERVIEW AND SCRUTINY COMMITTEE WORKING GROUP**

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to  
**OVERVIEW AND SCRUTINY COMMITTEE  
6 FEBRUARY 2025**

**MEMBER SCRUTINY ITEM REQUEST – PLANNING APPEAL AT WOODHAM  
MORTIMER**

**1. PURPOSE OF THE REPORT**

- 1.1 The purpose of this report is to bring to the attention of the Committee a Member scrutiny item request and the conclusions of the Working Group.

**2. RECOMMENDATION**

That the Committee determines this scrutiny request in the light of the Working Group's conclusions following the further consideration of the issues raised as set out in this report.

**3. SUMMARY OF KEY ISSUES**

- 3.1 A scrutiny item request has been submitted by Councillor S J N Morgan. The pro-forma based on his request is at **APPENDIX A** to this report. The request sought a review of various issues including the Council's conduct in relation to an appeal against the refusal of application 22/00344/FULPP-11053774 for a travellers' site beside the A414 at Woodham Mortimer. Planning permission was granted on appeal, subject to conditions, on 21 August 2023 for the change of use of land for two gypsy / traveller pitches comprising the siting of one mobile home and one touring caravan per pitch on the site.
- 3.2 The Working Group received an initial response from Officers to the points of concern raised, which can be summarised as follows:
- Failure to secure and monitor compliance with a planning condition as part of the permission granted on appeal – the requirement for an implementation timetable alongside details of the work submitted is being pursued by Planning Services. It is not considered that the permission granted on appeal has lapsed and there remains a position of partial non-compliance with the condition in question. A subsequent application for an alternative layout to that approved on appeal was submitted but withdrawn. It is anticipated that it will be re-submitted with correct documentation and information to overcome the previous reasons for refusal and therefore it would be inappropriate to consider enforcement action at this time.
  - With regard to the presentation of the case on appeal against the refusal of the original application, it should be noted that the Council incurred costs on the basis that the first reason for refusal could not be reasonably substantiated. Although the Council's case was presented by planning consultants due to the fact that Officers would have been professionally

conflicted by virtue of their original recommendation of approval, it was not possible for even professional planning consultants to counter certain facts. This meant it was difficult to demonstrate that the Council had met its statutory requirements in terms of Gypsy and Traveller Accommodation, that there was evidence of harm to amenity arising from the stationing of caravans, and that there was any form of nuisance.

- 3.3 The Working Group reported to the last meeting of the Committee on 24 September 2024 without a specific recommendation as to the need for further scrutiny as such, but rather requesting further information and explanation around the issues of harm to amenity in the locality, and also the existence of any form of nuisance. An update note containing this further information was received by the Committee and is again set out in **APPENDIX B** to this report as background information.
- 3.4 Additionally at the last meeting of the Committee an emailed communication from a Planning Agent acting for local residents had been sent to Members and Officers and set out further representations on the range of issues raised in this scrutiny request. It was therefore decided to refer the matter back to the Committee for further consideration and report.
- 3.5 The Working Group has looked at the scrutiny request again in the light of the representations received and comments on the various issues as follows:

### **3.5.1 Consideration of the Application**

- 3.5.1.1 The letters of representation / objections from local residents were reported to Members in the usual way with the main points being summarised in the report, and the individual communications being available to view on the Council's website. Some 53 points arising from the representations in this case were set out in a clear and unambiguous way.

### **3.5.2 Conduct and outcome of the Appeal**

- 3.5.2.1 It is acknowledged that the appeal statement and agreed Statement of Common Ground were not submitted by the required date. This was mainly due to the difficulty the Council had in engaging a planning consultant to take on the case due to the fact that Council Officers were professionally conflicted having regard to the decision being contrary to their recommendation. The matters contained in the draft Statement of Common Ground submitted by the appellant were uncontested.
- 3.5.2.2 The Inspector was clear as to the reason for the appeal. Officers did not attend the appeal as they could offer no support for the reason for refusal. The Environmental Health Officer did attend being familiar with the findings of his colleagues that there was no evidence of a statutory nuisance.
- 3.5.2.3 Upon notification of the appeal, a copy of the Officers' report on the application and a copy of the stated policies are sent to the Planning Inspectorate. The Officers' report clearly stated the number of objections received. The application had been assessed against the Council's current policy and was found to be satisfactory, and indeed the Inspector recorded in the decision that the proposal would accord with the relevant policy.
- 3.5.2.4 The issues raised regarding trees is not relevant to the determination of the appeal.
- 3.6 Further to what is set out in paragraph 3.2 above regarding the failure to seek compliance with a planning condition and the status of the application, the Council

has communicated with the legal representative of local residents, and the Planning Agent for the local residents is well of aware of the legal opinion supporting the Council's position on this point. Enforcement action for non-submission of a timetable remains an option should the developer commence work on the site in the absence of a timetable.

- 3.7 It was noted that this matter had caused much concern in the locality, and that whatever the outcome of this scrutiny request it would be necessary in the interests of openness for the concerns to be answered and explained better to the public, reflecting the responses to the issues around consideration of the application and conduct of the appeal outlined above. The matters relating to the status of the application, failure to seek compliance with a planning condition, and the scope for planning enforcement action are live and on-going development management matters for the Local Planning Authority and must be allowed to run their course.

#### **4. CONCLUSION**

- 4.1 The Working Group has noted the initial Officer response to the questions raised and the information received and sought further information on two points as referred to above. It has also received further Officer comments on the representations from the Planning Agent for the local residents received at the time of the last Committee meeting for report to the Committee so that the Council's position can be better explained to the public and that some of the concerns expressed by local residents can be allayed.

#### **5. IMPACT ON PRIORITIES AS SET OUT IN THE CORPORATE PLAN 2025 - 2028**

##### **5.1 Delivering good quality services.**

- 5.1.1 Thorough scrutiny processes support improved performance and efficiency which in turn will contribute to the quality of services provided, and functions undertaken by the Council.

#### **6. IMPLICATIONS**

- (i) **Impact on Customers** – None directly, but individual scrutiny reviews will enable the impact on customers to be assessed.
- (ii) **Impact on Equalities** – Equalities are considered as part of the reporting on review work undertaken by Officers.
- (iii) **Impact on Risk (including Fraud implications)** – Scrutiny reviews enable potential Corporate Risks to the organisation and their mitigation to be identified.
- (iv) **Impact on Resources (financial)** – Scrutiny reviews offer the potential for an assessment of financial impact to the organisation.
- (v) **Impact on Resources (human)** – Scrutiny reviews offer the potential for an assessment of any resource impact to the organisation.

Background Papers: None.

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