

Report of Overview and Scrutiny Committee to Cabinet

O&S Recommendations to Cabinet – Chilmington Management Organisation

The Overview and Scrutiny Committee recommends:-

- i) Where developments are granted planning permission within which a management company will be established, planning conditions should be stipulated which require that the Local Planning Authority be notified of the management company's formation and registration with Companies House. Developers must also detail how residents will be involved in the management of the company and their rights, and the Local Planning Authority should approve this;
- ii) Where developments are granted planning permission within which a management company will be established, planning conditions should be stipulated which require the developer to supply prospective occupiers of new dwellings with comprehensive information on the management arrangements for the development, including such information as:
 - The Right to Manage (for leaseholders)
 - Residents' rights under a management company
 - Challenging a management company's mechanisms
 - Challenging service charge levels
 - The process for changing a management company
- iii) The Council produce a 'Resident Trustee Pack' for occupiers of existing and new developments with a management company, including such information as:
 - The Right to Manage (for leaseholders)
 - Resident's right under a management company
 - Challenging a management company's mechanisms
 - Challenging service charge levels
 - The process for changing a management company
- iv) The Council establish and maintain a record of all Management Companies operating in the borough and the assets that these companies maintain.
- v) The Council lobby central Government to introduce a legal requirement for resident Management Companies to register with the relevant local planning authority.

Date of O&S meeting: Tuesday 24 July 2018

Chair of O&S Committee: Cllr Brendan Chilton

Date of Cabinet Meeting: Thursday 13 September 2018

Key Decision: No

Significantly Affected Wards: None specifically

Relevant Portfolios: Planning and Development
Legal and Democratic
Finance and IT

Management Team Comment: See paragraphs 9 - 12

Background Papers: **Resident Management Companies and the Chilmington Green Management Organisation (CMO)**

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Introduction and Background

1. In undertaking scrutiny of the council's (then) draft 2018/19 budget and hearing from the Strategic Officer Lead for the Chilmington Green CMO, the Budget Scrutiny Task Group felt that there would be value in the full Overview and Scrutiny Committee receiving a report on the differences between the CMO model and the 'traditional' model of estate management through a Private Management Company.
2. At its meeting of 24 July 2018 the Committee received a report from the Strategic Officer Lead for the Chilmington Green CMO and Chilmington CMO Project Manager which covered:
 - The policy history and justification for a community management model
 - How the model compares to community management examples elsewhere in the country
 - How the model compares to the private management model typically created by housing developers
 - The Government's leasehold and service charge reforms and how these may impact
 - Wider application and the Local Plan 2030

Recommendations

3. The Strategic Officer Lead for the Chilmington Green CMO noted in presenting the report that private management companies (PMCos) were typically implemented for managing apartment blocks with communal areas and amenities, but increasingly PMCos were being used by developers for the management of larger housing developments, and whilst a government code of practice existed for management companies, this was not mandatory and government were seeking to ensure that residential freeholders within a managed estate had similar rights to leaseholders.
4. Members of the Committee noted the difficulties that residents within their wards had encountered in instances where PMCos had been set up and were operating ineffectively. Whilst it was noted that not all PMCos underperformed, issues were widely reported regarding the administration and setting of service charges, the remit of management companies and confusion arising where residents paid both council tax and a service charge.
5. The Strategic Officer Lead for the Chilmington Green CMO advised that government had signalled an intent to cap service charge payments, a mechanism which the CMO arrangement already included.
6. The Committee felt that it would be beneficial for the council to create and maintain a database of PMCos in the borough which included the

responsibilities covered by residents' service charges (Recommendations 1 and 4).

7. Members felt that there needed to be greater clarity for residents of new and existing developments covered by a PMCo and that the council should take a dual role in both providing guidance for residents in existing PMCo arrangements and requiring developers to clearly advise new freeholders and leaseholders of their rights under a PMCo (Recommendations 2 and 3).
8. The Committee were pleased to hear of the government's intention to increase protections for freeholders and cap service charge increases, and felt that the council should actively lobby government to require management companies to register with local planning authorities.

Management Team Comment

9. Management Team feel that the council could utilise its existing powers to ensure that the rights of future leaseholders and freeholders are protected through setting appropriate conditions when granting permission for new developments. Management Team did note that such conditions would need to account for changes in Management Company that may come about following the build-out and occupation of new developments.
10. The views of the Overview and Scrutiny Committee in regard to recommendations 1, 2 and 4 are noted by Management Team and the sentiment in them supported, however it must be recognised that there are limits to what can be achieved through the setting of planning conditions for approved developments. Further work will be carried out to explore the potential use of supplementary policy advice to support the use of planning conditions and Management Team would advise Cabinet to **adopt recommendations 1, 2 and 4** with the understanding that the limits of the council's powers may preclude the council from fully enacting these recommendations.
11. Management Team noted the importance of ensuring that residents were aware of their rights in respect of both new and existing developments covered by a management company, and felt the provision of information outlined in recommendations 2 and 3 may be best achieved through including a dedicated page on the council's website which signposted residents to information held on gov.uk. On this basis management team would advise Cabinet to **adopt recommendation 3**.
12. The government's intention to strengthen leaseholder rights, particularly in regard to capping service charge increases was noted by Management Team, and it was felt that further lobbying through appropriate channels in respect of recommendation 5 may be warranted, and so Management Team would advise Cabinet to **adopt recommendation 5**.

Conclusion

13. The Overview and Scrutiny Committee are grateful for the attendance of the CMO Project team and the Planning Policy Manager, and recommend the following to Cabinet:
- i) **Where developments are granted planning permission within which a management company will be established, planning conditions should be stipulated which require that the Local Planning Authority be notified of the management company's formation and registration with Companies House. Developers must also detail how residents will be involved in the management of the company and their rights, and the Local Planning Authority should approve this;**
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 - **The process for changing a management company**
 - iii) **The Council produce a 'Resident Trustee Pack' for occupiers of existing and new developments with a management company, including such information as:**
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 - v) **The Council lobby central Government to introduce a legal requirement for resident Management Companies to register with the relevant local planning authority**

Contact and Email

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