



HILLINGDON
LONDON



Petition Hearing - Cabinet Member for Social Services, Health and Housing

Date: MONDAY, 30 APRIL 2012

Time: 7.00 PM

Venue: COMMITTEE ROOM 3
CIVIC CENTRE,
HIGH STREET
UXBRIDGE
UB8 1UW

**Meeting
Details:** Members of the Public and
Press are welcome to attend
this meeting

**This agenda and associated
reports can be made available
in other languages, in braille,
large print or on audio tape.
Please contact us for further
information.**

Cabinet Member hearing the petitions:

Philip Corthorne, Cabinet Member for
Social Services, Health and Housing

How the hearing works:

The petition organiser (or his/her
nominee) can address the Cabinet
Member for a short time and in turn the
Cabinet Member may also ask questions.

Local ward councillors are invited to these
hearings and may also be in attendance
to support or listen to your views.

After hearing all the views expressed, the
Cabinet Member will make a formal
decision. This decision will be published
and sent to the petition organisers shortly
after the meeting confirming the action to
be taken by the Council.

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INVESTOR IN PEOPLE

Useful information

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Agenda

CHAIRMAN'S ANNOUNCEMENTS

PART 1 - MEMBERS, PUBLIC AND PRESS MAY ATTEND

- 1 To confirm that the business of the meeting will take place in public.
- 2 To consider the report of the officers on the following petitions received

Please note that individual petitions may overrun their time slots. Although individual petitions may start later than advertised, they will not start any earlier than the advertised time.

	Start Time	Title of Report	Ward	Page
3	7pm	Petition requesting closure of the supported housing unit at 1 Kings Road, Uxbridge.	Uxbridge South	5 – 8
4	7.30pm	Petition requesting permission to install or change satellite dish at Skeffington Court, Hayes.	Townfield	9 - 14

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PETITION REQUESTING CLOSURE OF THE SUPPORTED HOUSING UNIT AT 1 KINGS ROAD, UXBRIDGE

Cabinet Member	Councillor Philip Corthorne
Cabinet Portfolio	Social Services, Health and Housing
Officer Contact	Ed Shaylor, Anti-Social Behaviour Service Manager
Papers with report	None

HEADLINE INFORMATION

Purpose of report	This report seeks to respond to a petition received by the Council on 17/12/11 requesting that the Council closes down the supported housing unit at 1 Kings Road, Uxbridge, UB8 2NW, and works with the management company to find a more suitable location for the residents.
Financial Cost	Nil
Relevant Policy Overview Committee	Residents and Environmental Services
Ward affected	Uxbridge South

RECOMMENDATION

That the Cabinet Member:

- a) notes the views of the petitioners
- b) advises that the supported housing unit is run by a company which is independent of the Council
- c) notes that Council Anti-Social Behaviour Investigations Team (ASBIT) officers have advised the management company to investigate improvements or changes to reduce the impact on neighbouring residents
- d) discusses with petitioners whether the improvements made by the management company are sufficient
- e) listens to petitioners representations with regard to the closure of the premises and advises accordingly.

INFORMATION

Background information

1 Kings Road was set up as a supported housing scheme, run by Positive Community Care, in August 2011. Residents are housed at 1 King's Road by Positive Community Care on referral from Care Managers at Central North West London Mental Health Trust, who conduct an assessment before the placement commences and a statutory assessment review every 12 months, or more frequently based on need. The service provides housing related support and assistance with independent living skills. As it is not a registered care home it does not fall within the regulatory arrangements of the Care Quality Commission. The placing authority is Central North West London Mental Health Trust on behalf of London Borough of Hillingdon, who therefore have a responsibility to ensure that the level of support is adequate for the needs of the clients placed there.

The Council's Planning Enforcement officer dealing with the case initially believed there may have been a change of use from a dwelling house to a residential institution, and therefore that planning permission should have been sought. However, legal advice later determined that as the home is a supported housing scheme rather than being a residential care home it does not need planning permission for a change of use. This is because the property remains within planning use class C3 (Dwelling houses), being Class C3(b) – up to six people living together as a single household and receiving care. This covers supported housing schemes such as those for people with learning disabilities or mental health problems. Case-law shows that there is a degree of flexibility in the number of persons occupying the property as long as the nature of the household does not change.

The petition is seeking closure of the property. The only legislative option available through which to seek this outcome would be an application to a Magistrate's Court for a Closure Order under Part 1A Anti-Social Behaviour Act 2003 which permits such action to be taken in respect of a premises that causes significant and persistent disorder or persistent serious nuisance to a community.

Reasons in support of an application for closure:

- The Council's Anti-Social Behaviour Investigations Team has received complaints since August 2011, detailing noise late at night and early in the morning; screaming by one of the residents; resident sitting on the front wall and talking loudly (in an aggressive manner) early in the morning; talking and swearing in the rear garden and general noise such as doors banging.
- Petitioners cite unacceptable noise, disruption and volatile behaviour and that several residents feel unsafe as a result of this behaviour.
- Being a semi-detached property, number 3 is directly affected but other properties in Kings Road and The Greenway are also affected by the behaviour of the residents.
- Actions taken so far do not yet seem to have resolved the issues faced by the residents.

Reasons against an application for closure:

- Positive Community Care (PCC) have confirmed that residents at 1 Kings Road do not have any history of violence towards the public.

- PCC also state that they believe as an organisation providing supported housing, that people have a right to access housing, regardless of any disabilities, but are happy to work with local authorities and residents to ensure that neighbours are not adversely affected by anti-social behaviour. PCC are also of the view that exposure to all walks of life, including people with disabilities, can help reduce discrimination and increase tolerance.
- Door closure devices have been fitted.

At a meeting with the supported housing scheme's management on 8th November 2011, the manager agreed to:

- speak to staff and make sure they are doing checks, particularly in the evenings and at night.
- require staff to be more proactive when dealing with incidents, in particular bringing residents in from outside when causing an issue, or supervising them more closely when outside.
- lock the front door until 7am and close windows at night.
- review the case if the person's mental health has deteriorated.
- give the office number and email to neighbouring residents so that they can report issues to them at any time.
- meet the neighbouring residents to discuss the issues further.

At a meeting on Tuesday the 13th December where further actions were agreed, as follows:

- One resident's care level to be re-assessed.
- Directors will speak to staff and will also work on random nights to check how staff are coping.
- Staff will add more detail to incident logs so that directors can monitor the situation and act accordingly.
- Periodic checks to also include outside areas.

Reasons for recommendation

Council officers have been working with the management company and the lead petitioner since August 2011 with the intention of improving the situation.

Alternative options considered

Due to the mental capacity of the residents it was felt that direct action against individual residents, such as issuing a noise abatement notice or building a case for an Anti Social Behaviour Order would not be proportionate or appropriate.

Financial Implications

There are no direct financial consequences for the Council.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

The measures discussed, if implemented by Positive Community Care, should reduce the impact on neighbouring residents.

Consultation Carried Out or Required

No specific consultation has been carried out, other than contact with the lead petitioners and the management company to explore solutions to the issue.

CORPORATE IMPLICATIONS

Legal

As is indicated in the body of the report, legal advice has already been provided to the Council's Planning Enforcement Officer to the effect that as 1 Kings Road provides housing related support rather than being a residential care home, it does not require planning permission for a change of use.

The Council would face difficulties in taking legal action to address the disturbances at 1 Kings Road. For example, it has the power to serve a Noise Abatement Notice under the Environmental Protection Act 1990; or issue a Closure Notice and apply to a Magistrate's Court for a Closure Order pursuant to Part 1A of the Anti-Social Behaviour Act 2003 which permits such action to be taken in respect of a premises that causes significant and persistent disorder or persistent serious nuisance to a community.

Firstly, any such action would be that much more difficult to take as the clients at 1 Kings Road have mental health issues. Secondly, it is made clear within the body of the report that there are insufficient grounds and evidence for legal action to be taken in this matter.

Home Office Notes of Guidance state that these powers should only be used as a last resort, where other interventions have been used or considered and rejected for good reason, and where implications, for example, for children or vulnerable adults in the premises, have been carefully considered.

BACKGROUND PAPERS

Petition received

PETITION REQUESTING PERMISSION TO INSTALL OR CHANGE SATELLITE DISH AT SKEFFINGTON COURT, HAYES

Cabinet Member	Councillor Phillip Corthorne
Cabinet Portfolio	Social Services, Health and Housing
Contact Officer	Grant Walker – Head of Housing Maintenance x7477
Papers with report	None

HEADLINE INFORMATION

Purpose of report	To inform the Cabinet Member that a petition signed by 20 residents of Skeffington Court, Hayes has been received. The petitioners are seeking permission to install an additional satellite dish to receive foreign language broadcasts.
Contribution to our plan and strategies	Healthy Communities, Older People and Housing
Financial cost	There are some costs associated with this report which can be met from within the works to stock programme allocations. There are no financial implications for the General Fund.
Relevant policy Overview Committee	Social Services, Health and Housing
Ward(s) affected	Townfield

RECOMMENDATIONS

That the Cabinet Member:

1. notes the request being made by the petitioners and the broader implications of this request relating to this estate and the remainder of the flatted stock; and
2. notes the contents of the report for the purpose of responding to the petitioners and instructs officers accordingly

INFORMATION

Reasons for recommendation

To allow the Cabinet Member to hear the concerns of the petitioners and to consider whether to agree to their request or otherwise.

Alternative options considered / risk management

The Cabinet Member could agree to the request of the petitioners and instruct officers to install this new satellite dish to the existing system, or choose to refuse the request.

Comments of Policy Overview Committee(s)

None at this stage.

Supporting information

1. A petition has been received from residents in Skeffington Court Hayes seeking permission to install an additional satellite dish to receive Arabic channels. The original petition received at the end of last year contained 16 signatures. A revised petition with 20 signatures was received on 16 January 2012. The petition stated 'Residents request permission to install or change satellite dish in property to Arabic channel or Hot Bird channels.'

2. Arabic channels are predominately available from the fleet of satellites managed by Eutelsat Communications which delivers digital television and radio channels to satellite and cable homes in Europe, North Africa and large parts of the Middle East. It broadcasts over 600 pay-TV channels, almost 500 free-to-air channels and over 100 HDTV channels. In addition to broadcasting television services, the system provides over 500 radio stations and multimedia services.

3. Over the last five years, the Council has upgraded all communal aerial installations ready for this April's digital switchover. The standard for these installations is a digital antenna and a satellite dish to receive a signal from the Astra satellite, the carrier for the Sky network (among others). There are some exceptions to this standard, especially in the case of some small and/or acquired blocks. The antenna counts as one installation and the satellite dish counts as another in terms of planning requirements.

4. There are no flat blocks in the housing stock where a dish for Eutelsat satellites has been installed by the Council. As the population demographics change and larger proportions of the community housed in the stock come from more varied ethnic backgrounds, it is envisaged that the demand for foreign language channels supplied by these satellites will increase (indeed there is a separate request from Avondale Drive residents). Where there is a communal aerial system residents are not permitted to put up their own dishes and therefore rely on the Council to provide this facility. In considering this petition, it is necessary to be mindful of any indirect discrimination that may arise in making a decision.

5. To provide access to Arabic and other foreign language programmes, we would need to add another satellite dish to Skeffington Court and replace the amplifiers at the head end. No additional cables would be required unless existing ones are faulty or found to be unsuitable due to cable type. Once installed, residents will need to subscribe to the channels supplied. Because there are already two devices fixed to the block, planning permission will be required for the additional satellite dish.

6. We estimate that it will cost in the region of £5,000 to install this additional satellite dish. As this will work out at below £250 per property, formal leasehold consultation will not be required. It is also likely that this would be viewed as an improvement and could only be charged to those leaseholders with an improvement lease.

7. In responding to this petition from the residents in Skeffington Court, the Cabinet Member will need to be mindful that residents in the other flat blocks on the Austin Road estate may also request provision of an additional satellite dish - there are five or six aerial installations on the estate.

8. Clearly a policy approach is required here and there are a number of decisions that have to be made if the Cabinet Member is minded to install this new satellite dish. The decision made here will have application in similar circumstances in the future. These are:

- At what point does the Council consider an upgrade to an existing installation? Is it when one resident requests it or a defined proportion of residents in a block request it? Do we run a programme of such upgrades across all the flat blocks with communal aerial systems?
- Does the Council charge everyone in the block(s) served by the communal aerial system (regardless of whether they use the upgraded channel availability), or not charge anyone for the upgrade? If not charging leaseholders, then the Council will be waiving income from those leaseholders that have an improvement lease. Leaseholders have already been charged for the original aerial installation, so may be unhappy about an additional charge. Indeed, anyone that does not use the channels available from the new aerial would question why they are being asked to contribute towards its cost.

9. If the Cabinet Member is minded to respond positively to the petitioners and to provide the additional satellite dish requested (subject to any planning permission required), then the following statements could form the basis for future policy

- That officers continue across the estate to do the same in respect of the remaining communal aerial installations
- That officers are instructed to then develop a Borough-wide programme of upgrades for inclusion in future works to stock programmes, based on where demand is most likely to originate
- That, if in the interim any requests are received from more than 10 tenants or leaseholders or 20 percent of the tenants and leaseholders in the blocks served by an existing installation (whichever is the lesser but with a minimum of five residents in smaller blocks), we bring forward this system in the upgrading programme
- That we restrict the number of additional satellite dishes to one and that the choice of dish is based on what the majority of the tenants and leaseholders want
- That the Council does not make any charge to leaseholders for installing these upgrades to the existing installations and waives that potential income recovery, even if a leaseholder is one of those requesting the new dish
- That officers explore the introduction of a service charge for tenants and for leaseholders for the ongoing maintenance of communal aerial systems

10. There is £50,000 funding allocated in the 2012/13 works to stock programme to pick up any outstanding digital conversions and that could also be used as well to fund the installation of this additional satellite dish and others on the same estate (as well as to the three tower blocks on Avondale Drive where we had a similar request).

Financial Implications

Should the petition be accepted and a policy to install the additional satellite dishes is approved then this is expected to result in additional expenditure of around £50,000 per annum. There are sufficient financial resources within the HRA to contain this potential cost.

EFFECT ON RESIDENTS, SERVICE USERS AND COMMUNITIES

What will be the effect of the recommendation?

If the Cabinet Member is minded to instruct officers to install a new satellite dish, this means residents can choose to subscribe to foreign language services that are not currently available to them. Residents in the other flat blocks on the Austin Road estate may also request provision of an additional satellite dish - there are five or six aerial installations on the estate.

Consultation carried out or required

No consultation has been carried out.

CORPORATE IMPLICATIONS

Legal

It is within the discretion of the Cabinet Member (subject of course to the issue of granting planning permission) as to whether he agrees to the installation of an additional satellite dish in Skeffington Court.

It is a well-established principle of public law that whenever a public body exercises its discretion, it must do so reasonably. Paragraph 9 of the report is therefore significant as it sets out a suggested policy in respect of future requests for the installation of additional satellite dishes. It is important that a policy is established as it will demonstrate that the Council, in following it, is exercising its discretion both consistently and reasonably.

A 2008 ruling of the European Court of Human Rights found Sweden to be in breach of Article 10 of the European Convention on Human Rights (right to freedom of expression) for upholding a landlord's right to take court action forcing a tenant to remove a satellite dish, which suggests that tenants may have a human right to information and news even if it can only be received via a satellite dish.

There are two points to note about this decision. Firstly, this decision is not binding on the UK courts although it should be taken into account by them. Secondly, it will be important to balance the rights of the tenant with the aesthetic considerations and the services already supplied by the landlord if a similar case comes up in the UK courts.

Guidance issued by the Equality and Human Rights Commission unhelpfully suggests that landlords will have to consider each case on its own merits. In this case, if a legal challenge was to be brought, it would be on the basis of the Council, in its capacity as the freehold owner of Skeffington Court, not agreeing to the installation of an additional dish. Contrast the position in the Swedish case where a breach of the European Convention was found on the basis that a landlord forced his tenant to remove a satellite dish which had already been erected.

If the Cabinet Member agrees to the installation of the satellite dish at Skeffington Court, then there will obviously be no basis for a legal challenge. However, if he does not agree, then there will be the potential for a legal challenge to be made. The Borough Solicitor is unable to predict with any certainty as to whether the legal challenge is likely to be successful or not. The only certainty that he can provide is that firstly, the High Court in England will not be bound by the Swedish decision and secondly, the facts of this case are different to those in the Swedish case.

Corporate Property and Construction

Corporate Property and Construction is in support of the recommendations in this report.

BACKGROUND PAPERS

Petition.

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