

COUNCIL MEETING – 8 JANUARY 2025

QUESTIONS FROM MEMBERS PURSUANT TO COUNCIL PROCEDURE RULE 14.3

Q1 Councillor Kelly to the Chair of the Environment Committee, Councillor Wallsgrove – responded to by Councillor Amanda Worne as Vice-Chair of the Environment Committee

Q1 As an asthma sufferer I take the issue of pollution very seriously and I hope that this Council will too. The Guardian recently reported (on Jan 21) under the heading "Avoid using wood burning stoves, if possible, warn experts". They then stated that Campaigners and Health experts are calling on people who have alternative heating not to use their wood burning stoves this winter amid growing concern about their impact on public health. The Guardian then went on to point out that wood burners TRIPLE the level of harmful particulates in the home as well as creating dangerous levels of pollution in the surrounding neighbourhood.

Some councils have now said that they are going to ban wood burning stoves and open fires which are pushing out small particles of soot etc into the atmosphere and causing respiratory problems for many people. Has this council any plans to do the same on Health and Safety reasons

A1 Members will be aware that the council adopted an air quality strategy in November 2023, which can be found on our website [Air Quality Strategy 2023 | Arun District Council](#) Included within the priority actions for future (item 4) is to investigate the feasibility of making some or all areas of Arun a Smoke Control Area. To restrict use of wood burners it would be necessary to establish a smoke control area and there are specific steps set out in legislation that must be followed before this can be done. This includes a period of public consultation, with a proposed Order and maps, and if it proceeds, any Order establishing a smoke control area cannot come into force until at least 6 months after the order is made. Where a smoke control area is in place people and businesses must not emit smoke from a chimney, and powers are available to the local authority to issue notices and financial penalties where this occurs. Public consultation is important, as whilst there are known health impacts from smoke emissions, wood burners may also be a critical source of heating for residents, and it is important that the council considers both the benefits and impacts prior to deciding whether or not to introduce a smoke control area.

As a member of Sussex-air, which is a partnership of the local authorities across Sussex, Arun participates in a range of educational and preventative actions on air quality. This includes advice provided via the [Sussex-air website](#) to help people heat their homes in less polluting ways including the following advice:

- Ensure you only burn dry wood – that is wood with less than 20% moisture content.
- Any wood you purchase should be labelled 'Ready to Burn' – this ensures the wood is considered 'dry'.
- Do not burn treated wood (e.g. old furniture, pallets, etc.) or household rubbish.

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- Clean your chimney regularly, this will increase efficiency and reduce the risk of chimney fires.

A survey carried out in 2019/20 by Sussex Air found that across Sussex 88% of people use their wood burning stoves to produce some heating and 6% for all their heating. It also found that energy efficiency was the most important factor when buying a stove, that overall Sussex had a younger stock of appliance compared to the UK average, and that the majority of stove users had their chimneys swept once a year.

Whilst council is committed to investigating the feasibility of introducing a smoke control area, there is significant work required before it can determine whether or not this should be introduced, and we would strongly recommend current users of wood burners review the advice on Sussex-air to ensure they operate their appliances in a way that minimises harmful emissions.

Supp

Q Some year's ago Government outlawed the burning of unseasoned wood and yet that type of wood is still being used, probably by the poorest in society, and it is a pity the winter fuel allowance has been removed. Do you agree?

Supp

A Thank you for your supplementary question and personally I am disappointed and upset with the rise in cost of energy prices as it will indeed affect the poorest and most vulnerable people not only in Arun but across the country.

I have some further information on burning fuel which I shall email to you separately.

Q2 **Councillor Andy Cooper to the Chair of the Planning Committee, Councillor McDougall**

Q2 As councillor for Angmering it has come to my attention Arun District Council are considering pursuing residents of Swallows Gate development financially for the failure of the developer to adhere to their conditional responsibility in delivering a footpath on Dappers Lane, Angmering, as part of their planning permission. These conditions are part of the responsibility of the planning authority to manage and enforce, which in this case leaves the residents of Angmering without this infrastructure on a very basic level.

As I understand it, this could mean that each homeowner of this development is likely to get a bill for thousands if not 10s of thousands of pounds because of the failure of the developer to comply with the conditions of the planning application to provide the footpath prior to the habitation of the development.

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I am sure that this is a shock and surprise to many members here, and potential homeowners in and the Around District, that there seems to be no mechanism in place to protect house purchasers when buying a property from a planning site where the conditions have not been complied with. In this case a few homeowners being expected to pay for costly infrastructure costing potentially hundreds of thousands of pounds.

Do you and this council feel that this is fair treatment of these residents who purchased these properties in good faith? Is this how we look to treat our residents or unsuspecting future residents of the district?

I am seeking assurances from this administration that the residents will not be personally or collectively liable for the delivery of the footpath.

A2 Thank you for your question.

Compliance with conditions and obligations attached to planning permissions are applied to the land and not the individual applicant. Non-compliance with these matters therefore falls upon anyone who acquires an interest in said land. This is a law and is not something that is set locally by Arun.

Further, the details around compliance with relevant planning conditions and obligations are all available at the time of purchase of properties. Our Land Charges responses always highlight that compliance with conditions and obligations should be checked and we have put a specific warning on this site from February 2022 that such compliance remains outstanding and should be checked. This warning has twice been updated with the latest update being August 2023 where the issue of non-compliance with conditions was highlighted.

In April 2023 a Breach of Condition Notice (BCN) was served on the developer. The notice was not complied with, and the developer went into liquidation.

Further enforcement action is being considered including a further breach of condition notice (BCN) served on others involved in the development, and a breach of Condition Enforcement Notice (BCEN). As I stated, it is a legal requirement that a BCEN is served on anyone with an interest in the land when the notice is issued.

In this case, the flood risk mitigation has not been agreed and properties have been sold and occupied. Securing compliance with this is essential to not increase flood risk elsewhere. I'm sure that we would all agree that ensuring that flood risk is not increased for any property in Arun is absolutely essential. Officers from Planning and Engineering are in pro-active and regular dialogue with the property owners and their management company in an attempt to resolve these matters.

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If an individual feels that they have been provided with incorrect information from a developer and/or they have legal recourse for the situation then they would need to take their own legal advice and pursue the matter privately.

I am aware that you have received regular communication and updates from officers on this matter and continue to. I would ask that you continue to liaise with them.

Supp

Q I can safely say that my communication, though I have been asking for it with officers, has been sporadic at best. Though I have not taken up any further communication this New Year, I can point out that though the enforcement notices were issued by this council in 2022, quite a lot of those houses were occupied in 2021 and were possibly unaware. But I will reiterate my questions which were not answered in your reply, and there was a long speal on flooding which was also not asked in my question, though maybe part of the whole but it was not part of my question and so I repeat my questions. Do you and this council feel it is fair treatment of these residents who purchased these properties in good faith, is this how we look to treat our residents or unsuspecting future residents of this district, and I will leave it at that with those two questions though there is another one in there Councillor McDougall. I do take it that that was an officer response and not your own personal response.

Supp

A Thank you very much. The law is laid down presumably by the Houses of Parliament it could well be that previous administrations of both Labour and Conservative have had that in place. Do I think it is fair? Personally I don't but we are where we are and the situation, as I have been advised by the officer answer, and I have spoken with the Group Head of Planning on the issue that is there, I am not prepared to step in at this stage as Chairman of the Planning Committee because there is a risk of flooding elsewhere as a direct result of the condition not being met. Unfortunately, as I said to the officer when we spoke, in other words the law is an ass. So, there is something not right there with legislation and I think per say, if I had taken legal advice as and when I was purchasing a property, I would at the very least have expected my solicitor to flag up that those planning conditions had not been adhered to. Now at that stage, I make a choice, do I buy the property or not. The bottom line is you have to look at it and you make that decision. In this situation the developer has gone into liquidation which is unfortunate and cannot be pursued and that is where the right avenue is by pursuing the Directors to do that but in this case, what can the council do. We cannot run the risk of having flooding elsewhere. What really concerns me is, and I would quite happily take away from here and speak with planning officers, how the council adheres to this policy in the longer term because if this is happening with other developments, then members need to know this, and we need to know in no uncertain terms as to what has happened.