

Scottish Parliament Region: Central Scotland

Case 200601843: South Lanarkshire Council

Summary of Investigation

Category

Local government: Policy/administration

Overview

The complainant (Mr C) was concerned that South Lanarkshire Council (the Council)'s decision to relocate temporary accommodation for young homeless people to Main Street, High Blantyre was taken without adequate consultation with local residents. Mr C said that the decision to create similar accommodation for young homeless people at Blairtum Park, Rutherglen had been preceded by extensive consultation with the local community.

Specific complaint and conclusion

The complaint which has been investigated is that the Council failed to engage in proper community consultation regarding the relocation of young homeless persons' accommodation to Main Street, High Blantyre, despite having done so for a similar project at Blairtum Park, Rutherglen (*not upheld*).

Redress and recommendation

The Ombudsman has no recommendations to make.

Main Investigation Report

Introduction

1. On 16 September 2006, the Ombudsman received a complaint from a man, referred to in this report as Mr C, about South Lanarkshire Council (the Council)'s decision to relocate temporary accommodation for young homeless people to Main Street, High Blantyre without adequate consultation with local residents. Mr C said that the decision to create similar accommodation for young homeless people at Blairtum Park, Rutherglen had been preceded by extensive consultation with the local community.

2. The complaint from Mr C which I have investigated is that the Council failed to engage in proper community consultation regarding the relocation of young homeless persons' accommodation to Main Street, High Blantyre, despite having done so for a similar project at Blairtum Park, Rutherglen.

Investigation

3. The investigation of this complaint involved obtaining and reading all the correspondence between Mr C and the Council. In addition, I obtained copies of: the Council's Homelessness Strategy; the Council's Community Engagement Framework; the Council's 'How to Guide' to Community Engagement'; a report submitted to the Council's Housing Services Committee (the Housing Committee) on 9 July 1997; a report put to the Council's Housing and Technical Resources Committee (the Technical Committee) on 3 May 2006; and minutes of Community Liaison Group (the Group) meetings dated 5 December 2006 and 8 February 2007.

4. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the Council were given an opportunity to comment on a draft of this report.

Background

5. On 9 July 1997, a report was put to the Housing Committee regarding the provision of homelessness accommodation for young people at Blairtum Park, Rutherglen (the Rutherglen project), a Council-owned building. The Rutherglen project involved the provision of temporary accommodation for up to 14 people with 24 hour support provided by the YMCA. Section 7 of the report was headed 'Consultation' and outlined the process for, and results of, consultation with the local community. This consultation included:

- 500 letters being sent to local people who might have felt most affected by the project.
- Two evening meetings which were attended by 350 people.
- 205 written responses were received and a summary of these responses was provided in table form in the report.
- Information leaflets were sent to 3500 homes in the local area regarding the project.
- The Local Elected Member was consulted.
- The local Community Council was consulted.

6. On 3 May 2006, a report was put to the Technical Committee regarding a proposal to acquire 12 self-contained flats at High Blantyre (the Blantyre project) and to relocate the Rutherglen project there. Section 10 of the report, entitled 'Consultation', stated that:

'10.1 Local members have been consulted. Consultation with local residents will be carried out as required in accordance with the statutory planning process for each site.

10.2 The Blairtum Advisory Committee and management of staff have been advised of the proposals for the YMCA Project.'

In addition, after the decision to set up the project was taken by the Technical Committee, the Council set the Group, which included Council officers, local Elected Members, the YMCA, the Police and local residents, as an advisory body whose view would be taken into account in the establishing and running of the project.

Complaint: The Council failed to engage in proper community consultation regarding the relocation of young homeless persons' accommodation to Main Street, High Blantyre, despite having done so for a similar project at Blairtum Park, Rutherglen

7. Mr C, in his complaint to this office, stated that consultation occurred when a Local Plan or other projects were being considered but that in this case, with something as controversial as a homeless unit, no consultation had taken place and the Blantyre project was put through the Technical Committee without a thought for local residents. Mr C said that extensive consultation occurred prior to the decision being taken on the Rutherglen project. Mr C said that the Council had dealt with the same situation in two completely different ways.

8. In response to my enquiries, the Council told me that the development of temporary accommodation at High Blantyre was consistent with the priorities which were set out in the South Lanarkshire Homelessness Strategy (the Strategy). They said that the Strategy confirmed that the Council saw developing a range of quality temporary accommodation options to meet the needs of homeless households as a priority. They told me that demand for such accommodation had been high in recent years and that the Council had worked with a range of partners to develop accommodation and support services for homeless people.

9. The Council said that the Housing (Scotland) Act 2001 placed increased duties on local authorities and that, as a result, they had to enhance their supply of temporary accommodation significantly by 2012.

10. The Council said, in terms of the use of the accommodation at High Blantyre, that it would continue to provide, as it had done since it opened in 1981, self-contained flats for single people. They said that the only change would be that the people living in the accommodation would be homeless people rather than older people.

11. The Council said their homelessness service was regulated by Communities Scotland and that the regulatory framework set out guidance and activity standards against which the Council service was assessed. The Council said that the standards specifically set out the need for:

- Homeless households to be placed in high quality temporary accommodation.
- Councils to promote equal opportunities for all.

The Council said that, in developing their supply of temporary accommodation, they had to balance the needs and interests of local residents with those of homeless households who often found themselves stigmatised and whose views were often disregarded when it came to establishing new services.

12. The Council said that they had no statutory duty to consult on the establishment of the Blantyre project. They said that the property would not be subject to a change of use as the facility would continue to provide 11 self-contained flats for single people. The Council said that from a planning perspective, the Blantyre project did not require planning permission and,

therefore, there was no requirement for neighbour notification or advertisement to be undertaken in terms of the planning legislation.

13. The Council said that, while they had no duty to consult the public regarding the Blantyre project, they had emphasised their commitment to engage with the local community to ensure that their interests were taken into account in the establishment and operation of the project. They said that they had set up the Group (see paragraph 6 above) to facilitate communication between the local community and the project. The Council said that two meetings of the Group had already taken place.

14. The Council told me that the Rutherglen project and the Blantyre project were very similar. The only differences between them were that:

- The Rutherglen project provided accommodation for 16 homeless people in 'rooms'.
- The Blantyre project provided accommodation for 11 homeless people in self-contained flats.

15. The Council said that the consultation which took place prior to the establishment of the Rutherglen project in 1997 was similar to that which was currently taking place for the Blantyre project. The Council said that the consultation was characterised by meetings being held with interested parties before the inception of the projects and, subsequently, with interested individuals and the local Elected Members participating in a Community Liaison Group. The Council said that the nature and extent of the consultation that occurred for both projects was similar and that the approach to consultation in both cases attempted to ensure that appropriate consideration was given to the views of local residents and the needs and aspirations of homeless people.

16. The Council said that their Community Engagement Framework (the Framework), which Communities Scotland had confirmed to them appropriately took forward the requirements of the National Standards for Community Engagement, had been considered in relation to the Blantyre project. The Council said that the approach taken in relation to the Blantyre project was not only consistent with the Framework but demonstrated the commitment to engage with communities in relation to service development and provision. The Council said that, as with any engagement process, a range of views had been identified, ranging from outright support to total opposition. The Council said they had attempted to be sensitive to the views and concerns of local residents

while at the same time considering the pressing need to increase the supply of good quality accommodation for homeless households and protect the interests of single homeless people the Council had a duty to provide housing for.

17. In commenting on the Council's initial response to my enquiries, Mr C stated that the Group that had been set up for the Blantyre project was a small group of hand-picked non-representative people who had little or no contact with the unit. Mr C disagreed that there was no difference between the people who formerly lived in the unit and the new residents, as young homeless people with serious issues were not the same client group as the elderly. Mr C maintained the consultation carried out for the Blantyre project was different to that carried out for the Rutherglen project.

18. I had some concerns regarding the Council's response in that I could not agree with their statement that the consultations carried out for the Rutherglen and Blantyre projects were similar in nature and extent. These consultations (described at paragraphs 5 and 6 above) seemed significantly different to me even though, as the Council acknowledged, the projects themselves were almost identical. I informed the Council that I found it hard to accept their statement and asked them to explain why a difference existed between the consultations on the two projects and whether this difference could be explained by a change in legislation that altered the Council's duties or a change in the Council's procedures or practice.

19. The Council replied stating that they wished to highlight the difficulties inherent in establishing accommodation for homeless households. They told me that homeless households, particularly those living in the sort of accommodation provided in this instance, were often subject to discrimination and exclusion. The Council stated that it was essential that the model used for engaging the local community in setting up an accommodation project for homeless people did not have the effect of compounding those issues.

20. The Council said they had emphasised the opportunity for community representatives to influence and inform the way in which the Blantyre project was established and run. The Council said, however, that they were very clear about the parameters within which engagement would take place and, in particular, they were not engaging about whether or not the project should be established in the first place.

21. The Council said that their initial response had set out the similarities between the Rutherglen and the Blantyre projects. They told me that the difference between the consultations that occurred between the projects could be explained by a number of factors:

- The legislative framework in relation to homelessness has been subject to wholesale reform over the last six years. The cumulative effect of the Housing (Scotland) Act 2001 and the Homeless etc (Scotland) Act 2003 has been to significantly expand the responsibilities of local authorities. Specifically, the legislation (and associated guidance) has significantly increased the numbers of households for whom the Council has a duty to provide temporary accommodation. Achieving an adequate supply of good quality temporary housing is a priority which is set out in our Homelessness Strategy (which was itself subject to consultation).
- Blairtum Park had previously been used as a care home for older people before it was considered as a project for homeless people. Additionally, the property at Blairtum Park had been unoccupied for a period of time before the decision was taken to use it for homeless accommodation. The change in use in Rutherglen was, therefore, more significant than in High Blantyre where, as noted above, the main change will relate to self-contained flats being occupied by homeless people rather than older people.
- Consistent with good practice in relation to community engagement the Council had been concerned not to embark upon consultation regarding a decision that had already been taken to set the project up in High Blantyre. It may be considered that the survey in 1997, while carried out for the best reasons, had the effect of raising expectations among local residents that they could stop the set-up of the project. In essence, therefore, the Council can be seen to have learned from the experience in 1997 and as noted above has been committed to establish an engagement process based upon a clear understanding of what is open to negotiation or influence, namely, arrangements in relation to the way the project is established and operates.

There is currently a lack of guidance in relation to this most difficult area. I understand that work is currently underway by Shelter Scotland to provide accommodation providers with detailed guidance in relation to the establishment of accommodation projects for homeless households. This guidance will, I am sure, provide a valuable resource to Councils and other providers when dealing with these difficult and complex matters.

- A key focus for the consultation in Blairtum in 1997 was through liaison with the Community Council. There is currently no Community Council in operation in High Blantyre.

22. In commenting on the Council's response to my second enquiry, Mr C said that the issue for him remained that, as opposed to the Rutherglen project, the Council had not consulted residents of High Blantyre before the project was decided upon. Mr C felt that the Council had now set a precedent for not complying with statutory requirements for public consultation. Mr C submitted a print-out from the website of the Convention of Scottish Local Authorities (COSLA), which showed that the Rutherglen project had received an 'Excellence Award'. Mr C argued that the Council should not stop using the excellent process of consultation that had been used for the Rutherglen project. Mr C said he was concerned that the Council were driven by an overriding pressure to use any building for homeless accommodation, irrespective of whether it was inappropriately located (for example, next to pubs or betting shops). Mr C was concerned that other projects could be secretively pushed through with no consultation and only what Mr C referred to as a useless Community Liaison Group to appease residents who complained.

23. Mr C said that if his complaint was not upheld it would send the message that the Council could do what they liked in relation to siting homeless units. Mr C said that the Council should be directed to involve the local community in those situations. Mr C said that other Council departments held public meetings before they took decisions and noted that the planning department was obliged to undertake public consultations on local plans before they were approved. Mr C felt that the homelessness department operated under different rules to others.

Conclusion

24. It is beyond doubt that the Council carried out very different forms of consultation for the Blantyre project compared to the Rutherglen project, even though the projects themselves were almost identical. The question for me is: does the difference in approaches to consultation amount to maladministration?

25. Mr C has referred to the Council failing in their statutory duties to carry out consultation, but I am unaware of any legislation imposing duties on the Council in this specific regard. Mr C has also referred to the Council engaging in consultation over Local Plans and noted that the same did not happen for the

Blantyre project. However, that comparison is not a fair one, as there are statutory requirements in place with regard to planning matters which do not apply here. I am satisfied that the Council had no statutory duty to consult the public regarding the Blantyre project.

26. I can see why Mr C may have expected there to be more consultation for the Blantyre project given the extent of the consultation that occurred for the Rutherglen project ten years earlier. However, ten years is a long time and it is clear that the Council's practice has changed in that time, partly due to new legislative requirements being placed on them and partly through the experience they have gained in dealing with similar projects.

27. While I can see why Mr C might have expected more consultation to have occurred in light of what happened for the Rutherglen project, I do not consider that expectation to be reasonable. In this case, the Council had no duty to consult and it was for them to decide how to proceed. I would not expect the Council to be bound by their practice of ten years earlier.

28. Mr C, in making his complaint, has referred to Communities Scotland's National Standards for Community Engagement. The Council have created the Framework based upon these standards. The Framework refers to different levels of engagement and, by setting up the Group, I consider that the Council are engaging appropriately with the local community. I note that Mr C views such groups as useless and that he has declined to be involved with the Group. That is a matter for him, but I consider that his concerns about the project and its potential impact on the local area would best be met by his taking an active part in the Group. What is certain is that the Council did not act maladministratively by choosing a form of engagement which they felt was suitable to the circumstances of the Blantyre project.

29. I note that the Council received an award for the Rutherglen project, although the award does not appear to have been specifically for the way consultation was carried out and I do not consider that the receipt of a COSLA Excellence Award should bind the Council to following a certain practice. Notwithstanding, the Council have clearly come to the view that the level of consultation that occurred for the Rutherglen project would now be excessive and inappropriate. The Council have also pointed out that it is good practice to set clear parameters with regard to the extent of engagement that is required

and I note that, where a decision does not require to be consulted on, it is for the Council to determine the appropriate way to engage the local community.

30. To conclude, therefore, I have seen no evidence of maladministration in this case. Mr C disagrees with the Council's decision to carry out a more limited form of engagement for the Blantyre project. However, the Council were not obliged to follow the same practice they employed ten years previously at Rutherglen. The key point is that the Council had no duty to carry out consultation and, therefore, cannot be said to have acted inappropriately in that regard. In all the circumstances, I do not uphold this complaint.

21 November 2007

Explanation of abbreviations used

Mr C	The complainant
The Council	South Lanarkshire Council
The Housing Committee	The Council's Housing Services Committee
The Technical Committee	The Council's Housing and Technical Resources Committee
The Group	Community Liaison Group
The Rutherglen project	Homelessness Accommodation at Blairtum Park, Rutherglen
The Blantyre project	Homelessness Accommodation at Main Street, High Blantyre
The Strategy	The Council's Homelessness Strategy
The Framework	The Council's Community Engagement Framework
COSLA	Convention of Scottish Local Authorities