

## **APPEALS PANEL 2**

**WEDNESDAY 8 MARCH 2017 AT 10.00AM**

**PRESENT:** Councillors Bloxham (Chairman), MacDonald and Tinnion (as substitute for Councillor Paton).

**OFFICERS:** Deputy Chief Executive  
Neighbourhood Services Manager  
Assistant Solicitor

**ALSO  
PRESENT:** Appellant

### **AP2.10/16 APOLOGIES FOR ABSENCE**

An apology for absence was submitted on behalf of Councillor Paton.

### **AP2.11/16 DECLARATIONS OF INTEREST**

There were no declarations of interest in respect of the complaint.

### **AP2.12/16 MINUTES OF PREVIOUS MEETING**

**RESOLVED** - That the minutes of the meeting held on 15 December 2016 be agreed as a correct record of the meeting and signed by the Chairman.

### **AP2.13/16 PUBLIC AND PRESS**

**RESOLVED** - That in accordance with Section 100A(4) of the Local Government Act 1972, the Public and Press were excluded from the meeting during consideration of the following item of business on the grounds that it involved the likely disclosure of exempt information, as defined in Paragraph Number 1 of Part 1 of Schedule 12A of the 1972 Local Government Act.

### **AP2.14/16 CORPORATE COMPLAINT - APPEAL**

The Chairman introduced the Panel and outlined the purpose of the hearing, together with the procedure to be followed. He gave an assurance that the hearing would be conducted fairly and that all parties would be afforded the time necessary to put their case, following which the Panel would reach a decision.

It was noted that all those present had seen the relevant documentation, copies of which had been circulated and understood the procedure for the meeting.

The Chairman invited the Appellant to present his case.

The Appellant advised the Panel that he had purchased a house (Property A) which he operated as a rental property for students. He had applied for and been granted a House of Multiple Occupation Licence from the Council and five tenants occupied the property.

Property A had been furnished with a single wheelie bin for the storage and presentation for collection of non-recyclable waste. The Appellant had considered that this provision was insufficient for the volume of waste, therefore in December 2016 he had contacted the Council by telephone to request an additional wheelie bin. The Appellant stated that this request had been declined on the basis that the Council operated a policy of one wheelie bin per property.

The Appellant had subsequently submitted a written request for a further bin, which had been accepted and the additional bin had been provided to Property A. The Appellant considered that as a result of the number of residents, Property A required a third wheelie bin to properly manage the refuse generated therein. The Appellant considered that the Council, through its Council Tax records ought to have known of the number of tenants at the property and provided the requisite number wheelie bins automatically.

The Appellant advised that due to the volume of refuse produced at Property A, and the length of time taken to secure an additional bin, a backlog of refuse bags had accumulated in the back lane adjacent to Property A. The Council had initially only collected the refuse contained in the wheelie bin, however, following a request from the Appellant, had collected the additional refuse sacks which had been stored in the lane at the rear of Property A. The Appellant advised that Council Officers had interviewed the tenants with regard to the backlog of refuse which had collected in the rear lane.

The Appellant stated that he had further contacted the Council to request that Property A's wheelie bins be collected from the lane at the rear of the dwelling by Council operatives providing waste collection services. The Appellant explained that the reasons for that request were: that the kitchen of Property A was situated at the rear of the dwelling, therefore it was more convenient for the wheelie bins to be stored and presented for collection at the rear of the property and; it would save the tenants the task of manoeuvring the wheelie bins to the front of the property for collection.

The Council had declined the request to collect refuse from the lane to the rear of Property A, for the reasons outlined in the report to the Panel. The Appellant contended that were the Council wheelie bin waste collection vehicle not able to manoeuvre along the lane at the rear of Property A, operatives were able to walk the short distance down the lane to collect the receptacles, transport them to the vehicle for emptying and return them to the presentation point in the rear lane. The Appellant considered this to be the most convenient solution to the issue of refuse collection from Property A.

In response to questions from Members of the Panel the Appellant confirmed that:

- He considered the response to his initial request via the Council's Customer Services department had been too rigid and had not taken fully into account the number of residents at Property A;
- Tenants in the property had on numerous occasions forgotten to deposit the wheelie bins at the designated collection point;
- He had on numerous occasions presented the wheelie bins on the kerbside for collection, as he was concerned that he was ultimately responsible for making the refuse collectable;
- As a landlord and HMO licensee he was ultimately responsible for ensuring refuse from Property A was presented for collection;
- He appreciated the Council's concerns regarding his request that the wheelie bins be collected from the lane to the rear of Property A. However, as the lane

was adopted and a short distance, he did not foresee any issues with the Council operatives accessing the lane to collect and return the bins;

- He was agreeable to Property A being provided with gull-proof sacks as a means for storing and collecting refuse, and that were gull-proof sacks to be provided he would ensure they were stored in the yard at the back of the property which was adjacent to the kitchen to facilitate his tenants using the sacks;
- He felt that the sacks should be collected from the lane at the rear of the property, not from the designated kerbside collection point;
- Recycling receptacles from Property A were collected at the same location as the designated point for kerbside refuse collection;
- The Council had offered to provide gull-proof sacks to the property.

The Chairman commented that the Appellant's acceptance of the use of gull-proof sacks was a step forward in addressing the matter. He noted that the sacks were collected on a weekly basis, rather than the fortnightly collections provided for wheelie bins.

The Chairman summed up the Appellant's complaint as follows: The current kerbside refuse collection was unsuitable, and that the Council should agree the Appellant's request to collect refuse from the lane to the rear of Property A. The Appellant confirmed that as an accurate summary of his complaint.

The Chairman thanked the Appellant for attending the meeting and advised that he would be informed in writing of the Panel's decision within 20 working days.

The Appellant left the meeting at 10:55am

The Deputy Chief Executive and Neighbourhood Services Manager were invited to attend the meeting.

The Chairman summarised the Appellant's case. He noted that during discussions with the Appellant the Panel had been advised of the response he had received from the Council's Customer Services department when he had initially contacted the Council to request an additional bin.

The Neighbourhood Services Manager responded that this issue had not been raised as part of the Appellant's Corporate Complaint, and therefore had not been addressed in the documentation circulated to Members.

The Deputy Chief Executive explained that, based on correspondence with the Appellant, he had understood that the substance of the Corporate Complaint was the Council's decision to decline the Appellant's request for refuse to be collected from the lane to the rear of Property A. He undertook to address the matter of the response from Customer Services with the appropriate Officers.

In response to a question from a Member, the Neighbourhood Services Manager confirmed that the Council had offered to provide gull-proof sacks to Property A, but that this had been declined by the Appellant. He added that were the gull-proof sacks to be provided the collection would remain on the kerbside.

The Chairman advised that the Appellant had indicated to the Panel that he was agreeable to gull-proof sacks being provided to Property A, and that he had felt two or three sacks would be sufficient.

The Neighbourhood Services Manager confirmed that he was agreeable to pursuing this proposal with the Appellant.

The Neighbourhood Services Manager explained that the Council offered assisted collections to residents who had genuine physical difficulties in presenting refuse for collection. He noted that no such collections were provided in the area of Property A.

In addition, for the reasons stated in the correspondence with the Appellant and detailed in the report, it was not logistically nor resource viable to provide a non-kerbside refuse collection point for Property A. The location of the bins to the front or the rear of the Property in between collection times was a matter for the Appellant and his tenants.

The Deputy Chief Executive added that in order to maximise the efficient operation of refuse collection services, routes were planned and assessed against a number of factors including accessibility, and Health and Safety. The Appellant's request for collections to be made from the back lane had been declined, as agreeing the request was likely to set a precedent whereby other similar requests would be required to be complied with. This would significantly add to the Council's cost for delivering refuse collection services.

Regarding the Tenants of Property A, the Neighbourhood Services Manager explained the circumstances surrounding the interviewing of the Tenants by a Council Enforcement Officer and the reasons why a Fixed Penalty Notice was not issued in respect of litter in the lane to the rear of Property A.

The Neighbourhood Services Manager therefore considered that the Council had taken all reasonable steps to ensure that the tenants of Property A were able to present refuse in the appropriate manner.

Responding to a question from a Member regarding education for residents in relation to what materials ought to be recycled and what was considered refuse, the Neighbourhood Services Manager confirmed that Officers were able to undertake an audit of the items presented for collection and offer advice as required.

The Chairman requested that an audit of the refuse and recycling items at Property A be carried out. The Neighbourhood Services Manager agreed to make the necessary arrangements for the audit to take place.

The Deputy Chief Executive and Neighbourhood Services Manager left the meeting at 11:40am.

The Panel then considered the presentation from the Appellant, responses from Officers and the evidence that had been presented to them, prior to and during the hearing and:

**RESOLVED – (1)** That the Appeal was not upheld on the grounds that it would not be practical or in-line with other collections within the area, and that Officers had acted appropriately in dealing with the complaint.

(2) That the Panel noted the actions undertaken by the Council, and requested that Officers make the necessary arrangements for the provision of a refuse audit and gull sacks at Property A.

(the meeting ended at 12:07pm)