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# **INFRASTRUCTURE, HOUSING AND ECONOMIC DEVELOPMENT COMMITTEE**

## **MINUTES**

of a meeting held in the Penn Chamber, Three Rivers House, Rickmansworth on Tuesday 22 June 2021 from 7.30pm and 8.16pm.

Councillors present:

Andrew Scarth (Lead Member for Housing)	
Matthew Bedford (Lead Member for Infrastructure and Planning Policy Development)	
Joanna Clemens	Paul Rainbow
Alex Hayward	Reena Ranger
Tony Humphreys	Ciaran Reed
Stephanie Singer	

Officers Present: Matthew Roberts, Team Leader Projects and Compliance  
Kimberley Rowley, Head of Regulatory Services  
Sherrie Ralton, Committee Manager

**Councillor Andrew Scarth in the Chair**

### **IHED 01/21 APOLOGIES FOR ABSENCE**

Councillor Stephen Giles-Medhurst (Lead Member for Transport and Economic Development) was unable attend due to issues on the M25  
Councillor Joan King

### **IHED 02/21 MINUTES**

The minutes of the virtual/remote meeting of the Infrastructure, Housing and Economic Development Committee held on 16 March 2021 were confirmed as a correct record signed by the Chair.

### **IHED 03/21 NOTICE OF OTHER BUSINESS**

None received.

### **IHED 04/21 DECLARATION OF INTERESTS**

None received.

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**INFRASTRUCTURE AND PLANNING POLICY**

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## IHED 05/21 REVISED PLANNING ENFORCEMENT PLAN

The Officer updated as follows: As set out within the Committee Report, a review of the existing enforcement plan has taken place. The current plan was first adopted in May 2013 following the introduction of the National Planning Policy Framework (NPPF). There had been no material legislation changes since; however, given the age of the current plan it was considered necessary to review. The review also formed an action from the internal audit which took place in late 2019 / early 2020.

The revised plan was far more detailed with the main differences set out within the report. For clarity, the main changes included:

- More specific details of what a planning breach is
- How to report breaches electronically (which enabled the ability to upload photos)
- What to expect from the department
- More detailed advice on how we approach breaches
- Power for the Council to not determine an application
- Introduction of greater enforcement powers
- Section on enforcement appeals
- Prosecutions
- Real life examples

It was noted that a few minor changes were required, if the revised plan was agreed by Members. These included:

At para 8.11...need to include **“to take enforcement action”**, the Council will inform the complainant setting out clear reasons as to why such a decision has been made.

At para 4.5 – the reference to GDPO should be altered to “GPDO”.

The table at paragraph 8.4 would be streamlined.

Members raised the following issues:

Neighbours found it very annoying when, following a breach and the landowner not having submitted retrospective planning application, Officers decide that, had it been submitted, planning permission would have been granted therefore it would not be expedient to take enforcement action. The Planning Portal showed when decisions were arrived at and a Member asked for a note to go out to advise Members how to access that information to help make the process more transparent.

The Officer said that decisions not to take enforcement action were governed by legislation and guidance that stated if not harmful then the case should be closed; however, the reasons why it would not be expedient would be set out in a letter to the resident. In cases of a significant breach when enforcement action was not being taken, the Land and Property Team would be notified internally of a breach of planning control so any future prospective purchasers would be notified of the breach. The Officer would provide Members with details of how to look up enforcement cases within their Ward using the Planning Access Website. This will be sent out via the Members Bulletin. .

Clarification was required on Stop Notices and Temporary Stop Notices. The Officer advised that a Temporary Stop Notice was required when the Council

needed to stop the works immediately due to significant resultant harm that would be difficult to undo, i.e. traveller encroachment onto the Green Belt. These came into power straight away and an injunction could be used if necessary. A Stop Notice could be used where a developer started building without planning permission or deviated from the approved plans. There were issues with a Stop Notice on businesses as compensation could be claimed. A Temporary Stop Notice would only take effect for 28 days so during that period a Stop Notice could also be issued.

The Member's concern was that whilst a Stop Notice was being prepared building work could be considerably further along the line and if no harm could be demonstrated when a retrospective application was submitted it would seem unreasonable for them to demolish the whole thing. A Temporary Stop Notice could also be used in this instance, followed by a Stop Notice / Enforcement Notice.

The Officer advised that generally differences were not significant enough to warrant Stop Notices. There were cases when retrospective applications did not get approved, some were refused before they went to Planning Committee. It was dependent upon whether the changes were harmful.

How many successive retrospective applications within 2 years would be considered as too many and would there have to be obvious differences to the applications? The Officer advised that if an application was refused and an almost identical application was resubmitted Officers had the power to not determine the application if submitted within 2 years of a refusal. Also, if an enforcement notice had been served and a retrospective application was submitted for part, or whole of the development referenced on the notice Officers had the power to not determine. If a further application was submitted it would be a judgement by officers as to whether to accept the application, on a case by case basis. Applicants needed to show that they were trying to remedy a refused retrospective application.

Members said it was a much more detailed report with more transparency for residents.

How were the Enforcement Team going to manage the workload with the extra diligence of neighbours and additional building work taking place? The Officer said there had been a lot of building work taking place over a number of years and they had always had the same number of resources. There were approximately 300 complaints per year. Numbers were up due to a backlog caused by COVID but Officers were still responding to residents. Generally residents were the Council's eyes and ear as Officers were unable to police the District. Enforcement issues could be very complex and time consuming. Any workload issues that arose would be flagged immediately.

Was there any data on the results of the enforcements? The Officer advised that they had started recording breaches and would look at including more performance indicators on the type of breaches occurring.

Under Priority 2 it said there would be a site visit within 20 working days, which seemed a long time. The Officer advised they had not compared with other Authorities but it had been 20 days since the initial plan document in 2013. Generally the site visits did take place within the 20 days but due to the number of staff and applications they needed some leeway. Officers were able to prioritise cases.

The Head of Regulatory Services said they would reiterate that any unauthorised works would be at their own risk. They may have got further along with their work but the Council had to be realistic about their resources. Officers did not raise expectations but would always try to get there sooner.

In terms of resources, applications had increased nationally by 20 to 30% over the past year, and this increase was being seen at TRDC with mostly Household applications and Permitted Development applications. They were looking at the existing staff levels but there was no increase in income or budgets as it was the smaller applications with lower fees but a lot of extra work.

Would the time taken for an enforcement to count towards the 4 to 10 year rule or would the clock stop when a complaint was made? The Officer said the clock was only stopped when an Enforcement Notice was served, not when the complaint had been received.

A Member said some phrases could be twisted to make almost anything acceptable in certain cases. The Head of Regulatory Services said Enforcement was part of the planning application process and all works had to be assessed as part of the Local Plan, National Policies and any other material considerations and a professional judgement would be made in conjunction with what they knew about case law. They had to give the same considerations as if they had the planning application in front of them, at a Planning Committee or were trying to defend it at a Public Inquiry.

Paragraph 5.3 was there a reason why anonymous complaints would not be investigated and what would be against it being in the public interest to investigate? The Officer advised that anonymous complaints made it difficult to get evidence. Lots of letters were from neighbours that do not get on and may be a civil issue. If it was significant such as breach of a Tree Preservation Order it would be investigated or if an anonymous complaint arrived with photographic evidence then it would be investigated.

The Officer was trying to put together a document to show Members and Residents the work that was taking place and the difference that it made.

Retrospective enforcement notices had to be served on anyone with an interest on the land, the owner occupier, mortgagee and anyone else operating from the site. Temporary Stop Notices would be posted on a stake on the land to ensure they were visible.

Councillor Paul Rainbow moved, duly seconded by Councillor Stephanie Singer, the recommendation set out in the report.

On being put the Committee the Chair declared the recommendation to agree to Option 1 was CARRIED the voting being unanimous.

RECOMMEND:

That Members' agree to Option 1:

- a) That Members make any comments on, or additions to, the draft Planning Enforcement Plan for formal adoption by Full Council on 13 July 2021.

***Post Meeting Note: As there were no policy or budget implications the Enforcement Plan was not required to be ratified at Full Council. The revised plan was circulated to all Members of the Committee before being formally adopted.***

**IHED 06/21 WORK PROGRAMME**

To agree the Committee's work programme.

The Cycling and Walking Strategy report was in preparation.

The review on creation of car parks on TRDC owned land would be considered by the Property Team.

RESOLVED:

Noted the work programme.

**CHAIR**