

BABERGH AND MID SUFFOLK DISTRICT COUNCILS

Minutes of the meeting of the **JOINT OVERVIEW AND SCRUTINY COMMITTEE** held in the King Edmund Chamber - Endeavour House, 8 Russell Road, Ipswich on Thursday, 20 February 2020

PRESENT:

Councillor: Keith Welham (Chair)

Councillors:	James Caston	Kathryn Grandon
	Lavinia Hadingham	Alastair McCraw (Co-Chair)
	Mary McLaren	Andrew Mellen
	David Muller	Adrian Osborne
	Keith Scarff	

In attendance:

Officers: Assistant Director – Planning and Communities (TB)
Assistant Director - Law and Governance and Monitoring Officer (EY)
The Heritage and Planning Compliance Officer (SB)
Business Practice Manager - Development Management (JH)
Senior Governance Officer (HH)

Apologies:

None

9 DECLARATION OF INTERESTS

9.1 There were no declarations of interests received.

10 JOS/19/23 TO CONFIRM THE MINUTES OF THE MEETING HELD ON 8 JANUARY 2020 (CORPORATE PLAN OUTPUTS)

10.1 With the following amendments the minutes of the meeting held on the 8 January 2020 (Corporate Outputs) be confirmed as a true record:

Paragraph 51.19 amend to: Councillor Scarff queried in relation to the Corporate Outputs whether there would be a review of parking in Stowmarket looking in particular at exits and entrances at Milton Road carpark.

11 JOS/19/24 TO CONFIRM THE MINUTES OF THE MEETING HELD ON THE 8 JANUARY 2020 (WSCSP)

11.1 The minutes of the meeting held on the 8 January 2020 (WSCSP) be confirmed as a true record.

12 TO RECEIVE NOTIFICATION OF PETITIONS IN ACCORDANCE WITH THE COUNCIL'S PETITION SCHEME

12.1 None received.

13 QUESTIONS BY THE PUBLIC

13.1 None received.

14 QUESTIONS BY COUNCILLORS

14.1 None received.

15 JOS/19/25 PLANNING ENFORCEMENT

15.1 Philip Isbell, the Chief Planning Officer introduced the report and drew Members' attention to the Joint Local Planning Enforcement Policy 2017 and the following paragraphs:

- Paragraph 9.7 the Council maintained a public Planning Enforcement Register and were expected to apply enforcement actively.
- Paragraph 6.4 detailed the current method of prioritising enforcement cases.
- Paragraph 7.2 and 7.3 outlined the timeline for complaints received.

15.2 He continued that it was not a criminal offence to break planning control, but that the Council had an obligation to investigating and to enforce breach of planning policy. When undertaking this the degree of harm had to be considered when investigation a complaint to Planning Enforcement.

15.3 However, the current Joint Local Planning Enforcement Plan required updating, and he referred to recommendation 3.2, which proposed a review of the plan.

15.4 He continued that there was ongoing transformation work, including new software, which had improved the efficiency of the case workload.

15.5 There were currently 218 active investigations and the number of investigations had remained at this level for a period of time. The team would be reviewing all of these investigations if a review was agreed.

15.6 The Chief Planning Officer detailed circumstances, which were not planning issues (Paragraph 4.2) and that in the role as planning enforcement authorities, the Councils received planning enforcement cases referrals from Suffolk County Council.

15.7 Members all agreed that the Report was excellent and provided a robust understanding of the Joint Local Planning Enforcement Plan.

15.8 The Chief Planning Officer responded that as a local Planning Enforcement authority it was important that planning enforcement was not seen by the local community as a source of income and that more information regarding the planning enforcement process was made available to the public. Community confidence was based on the investigation credibility.

15.9 Councillor Hadingham asked for clarification of the total alleged breaches of Planning compared with actual cases and how that process was conducted.

- 15.10 The Chief Planning Officer detailed how the planning enforcement process was implemented and how effective enforcement tended to use active enforcement methods such as enforcement notices, breach of condition notices, taking cases to court and seeking an injunction in matters which were not settled satisfactory. He referred to the case study attached in the report. Though he felt that often polite persuasion was more effective than more assertive methods.
- 15.11 Councillor Mellen said that it was often the perception of Parish Councils that the Council was reluctant to take action in cases which involved individuals, who made frequently planning breaches and he enquired, if this was due to limited resources and a reluctance to take legal action.
- 15.12 The Chief Planning Officer responded that there were a number of reason for this perception, including possible lack of experience and knowledge within the Enforcement Team and possibly lack of resources. However, it was more likely to be a perception of what was a breach of planning control. Enforcement cases were often complex, and Parish Councils were not always correctly informed of the circumstances of planning control complaints.
- 15.13 The Enforcement Team were becoming more experienced and a review to assess workload, court dates and effectiveness were being undertaken to provide an optimisation of the team. He did not feel that resources were necessarily an issue.
- 15.14 The Assistant Director for Planning and Communities added if it was a perception that the Council did not take action when required, then this needed to be addressed.
- 15.15 Councillor Hadingham asked if it would be better for the service to have an in-house Building Control service rather than the currently outsourced Building Control Inspectors.
- 15.16 The Chief Planning Officer explained that he felt that the Councils had obligations to be proactive to disarm issues and work with developers, as it was the interest of all parties involved to deliver satisfactory housing developments. However, Building Control also played a role in this process.
- 15.17 Councillor Grandon enquired if Planning Enforcement could be used as a deterrent for developers to discourage attempts to get around the planning control system.
- 15.18 The Chief Planning Officer responded that Planning Enforcement could not be undertaken during a planning application process. However, the Planning Department worked closely with developers though out the planning application process to mitigate such situations and added that the Planning Team had tools at their disposal to manage such situations.
- 15.19 Councillor McCraw enquired if there were any performance measures in place to monitor the Planning Enforcement process.

- 15.20 The Chief Planning Officer explained that performance measures for Planning Enforcement cases were a working process and that the data cleaning process would provide a clearer picture once this was completed. Currently the focus was on investigations, which lasted longer than 26 weeks.
- 15.21 Councillor McCraw observed that based on the planning issues reported to him, as a Ward Councillor, the indication was that the public perception of Planning Enforcement was of a concern.
- 15.22 The Assistant Director for Communities and Planning stated that unlike the planning application process, which had set deadlines for being processed, Planning Enforcement did not have such parameters. This would come under consideration during the review.
- 15.23 As part of the review officers from the Planning Team had visited Milton Keynes Council as this Council had recently refreshed their Planning Enforcement process.
- 15.24 Julie Havard, Business Practice Manager - Development Management then detailed to the Committees the purpose of the visit and how Milton Keynes Council had managed to reduce a case workload of 1000 cases down to 300 active planning enforcement cases.
- 15.25 Councillor McCraw then referred to the attached Case Studies in Appendix A and B and asked Simon Bailey, the Heritage and Planning Compliance officer, to explain these to the Members.
- 15.26 Councillor McCraw thought that Planning Enforcement for larger developments was a concern for Members, especially as these planning applications contained a large amount of conditions, which had to be upheld.
- 15.27 The Chief Planning Officer responded that generally the Planning Team had an effective relationship with developers and encouraged compliance as first course of action. However, work between the Planning and the Enforcement Team, on how to tackle planning condition breaches, was ongoing.
- 15.28 Larger Communities were exposed to large Community Infrastructure Levy (CIL) bids but were made aware of these early in the process, developers had to apply these conditions early.
- 15.29 The Heritage and Planning Compliance officer informed Members that all of the long- term planning enforcement cases were for individual members of the public and not professional developers. This was usually caused by the individuals lack of understanding of the planning process.
- 15.30 Councillor Caston asked how the Planning Enforcement team responded to emergency enforcement when there was danger to the public in relation to the priority list of high, medium and low. He referred to a specific case.
- 15.31 The Chief Planning Officer explained that in such situations the priority list

would be too simplistic and did not allow for the right action to be taken, However, this did not help public perception of the Council's involvement in the processes and that this was a multidisciplinary process. The complexity of harm in relation to planning enforcement breaches was often a matter to be considered on a case by case basis.

- 15.32 In response to Councillor Welham's question regarding protected trees being felled and hence breaching Tree Preservation Orders (TPO) the Heritage and Planning Compliant officer clarified that the TPO officer would attend criminal offences and take these to Court straight away. A replacement of like for like would also be imposed.
- 15.33 In response to Councillor Welham's second question regarding new buildings without planning permission. The Chief Planning officer detailed the enforcement options for such a case and that ultimately the right to appeal against a Planning Enforcement Decision could be removed.
- 15.34 Councillor McCraw asked for confirmation that a breach of planning control was not a criminal offence but dealt with under civil law, which was confirmed by the officers.
- 15.35 Councillor Adrian Osborne thanked the officer for the report on the Joint Planning Enforcement Plan and thought that town and larger parish Councils could benefit from received a copy of the report. He asked how site visits had been instigated, whether it had been caused by a resident, ward councillors or through the planning application.
- 15.36 The Chief Planning officer referred to appendix E, which detailed a snapshot of a weekly case workload for Planning Enforcement Officer, which illustrated what officers were spending their times on.
- 15.37 Councillor Osborne responded that site visits were important as this could help residents to understand the process and to prevent breaches of enforcement early in the application process.
- 15.38 Councillor Mellen enquired if the Planning Enforcement team was reactive to complaints in relation to the development of the sites.
- 15.39 The Chief Planning Officer explained that generally the team was reactive and were not expecting to take pro-active roles.
- 15.40 Councillor McLaren enquired if an implementation of regular audit of enforcement case would be put in place once the review and new systems were in place.
- 15.41 The Chief Planning Officer detailed the options provided by the software used by the Planning Enforcement team and that in due course audits would be undertaken.
- 15.42 Councillor Muller thought it was an excellent report and asked if a copy could

be made available for town councils. He also asked if training would be provided for town and parish councils for Planning Enforcement as he thought this would be beneficial.

- 15.43 The Chief Planning Officers clarified that planning enforcement training for town and parish councils would be explored once the current plan had been reviewed.
- 15.44 Councillor McCraw proposed that all Members were made aware of the report and be directed to the website for the Joint Planning Enforcement Plan.
- 15.45 Members discussed the additional recommendations and recommendations 3.1, 3.2 and 3.3 and it was agreed that recommendation 3.2 should be amended be a recommendation to Council and that it would be a Task and Finish group, which should undertake the review.
- 15.46 Members agreed to add 'in six months' to recommendation 3.3.
- 15.47 The amended recommendations 3.1, 3.2, 3.3 and additional recommendation were proposed by Councillor McCraw and seconded by Councillor Mellen.

By a unanimous vote

It was resolved:

- 1.1 That the contents of this report be noted.**
- 1.2 That the Committee recommend to Council the establishment of a Member/Officer Task and Finish Group to review the JLPEP and that this Group be requested to have regard to best practice and other examples of other published Local Enforcement Plans in that process of review.**
- 1.3 That an update on progress with service transformation work within the planning enforcement be provided to the Committee in six months**
- 1.4 That the Overview and Scrutiny Committee recommend that Members be made aware of the report and be directed to the website.**

16 FORTHCOMING DECISIONS LIST

It was resolved:

That the Forthcoming Decision List be noted.

17 JOS/19/26 BABERGH OVERVIEW AND SCRUTINY WORK PLAN

- 17.1 Members discussed both Babergh work plans and Councillor McCraw informed the Babergh members that on officers' advice the Belle Vue House Report had been deferred to May 2020.

- 17.2 Councillor Grandon suggested that a review of the upcoming Civil Parking Enforcement (CPE) report be scheduled for later in the year.
- 17.3 The Monitoring officer provided clarification of the CEP and that Babergh District Council had not yet adopted the plan.
- 17.4 Members discussed the CPE and whether a review should be added to the 'Topics Identified for review but not Currently Timetabled, and it was agreed that the chairs should discuss this at the next Chairs briefing.

It was resolved: -

That the Babergh Overview and Scrutiny Work Plan be noted.

18 JOS/19/27 MID SUFFOLK OVERVIEW AND SCRUTINY WORK PLAN

It was resolved: -

That the Mid Suffolk Overview and Scrutiny Work Plan be noted

19 RESOLUTION TO EXCLUDE THE PUBLIC (WHICH TERM INCLUDES THE PRESS)

- 19.1 Councillor Osborne proposed the recommendation which was seconded by Councillor McCraw.

By a unanimous vote

It was resolved:-

That pursuant to Part 1 of Schedule 12A of the Local Government Act 1972, the public be excluded from the meeting for the business specified below on the grounds that if the public were present during discussion of this item, it is likely that there would be disclosure to them of exempt information as indicated in the report.

20 MOS/19/11 TO CONFIRM THE MINUTES OF THE MID SUFFOLK MEETING HELD ON THE 8 FEBRUARY 2020

It was resolved:

That the confidential minute of the meeting held on the 8 January 2020 be confirmed as a true record.

The business of the meeting was concluded at 11.11 am.

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Chair

