

ORGANISATION SCRUTINY COMMITTEE

MINUTES OF MEETING HELD ON TUESDAY, 14 MARCH 2023

Present:

Councillor Stephen Clough (Chair) (in the Chair)

Councillor Joseph Birkin
Councillor David Hancock
Councillor Philip Wright

Councillor John Funnell
Councillor Pat Kerry

Also Present:

J Hawley	Principal Planning Enforcement Officer
D Stanton	Senior Scrutiny Officer
T Scott	Governance and Scrutiny Officer
L Shaw	Managing Director (Rykneld Homes)

OSC/ Apologies for Absence

50/2

2-23 Apologies for absence were received from Councillor M Jones and Councillor D Ruff.

OSC/ Declarations of Interest

51/2

2-23 Members were requested to declare the existence and nature of any disclosable pecuniary interest and/or other interest, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

Councillor S Clough declared an interest in his capacity as a Member of the Rykneld Homes Board of Directors. He indicated he would remain and participate in the meeting.

OSC/ Minutes of Last Meeting

52/2

2-23 RESOLVED – That the Minutes of the previous meeting of the Organisation Scrutiny Committee held on 24 January 2023 be approved as a correct record and signed by the Chair.

OSC/ Rykneld Homes

53/2

2-23 The Managing Director of Rykneld Homes delivered a presentation to Members updating them on the work being undertaken by Rykneld Homes. This included:

- Partnership between Rykneld Homes Ltd (RHL) and North East Derbyshire District Council (NEDDC)
- Working with Cabinet and Councillors
- Governance Arrangements

- Tenant-led Operational Board (Non-decision Making)
- Asset Management Strategy
- Housing Services
- Enforcement
- Developing Talent

Members referred to the Enforcement section of the presentation and were concerned that sometimes Enforcement was brought in too late as part of the anti-social behaviour process. The Managing Director (Rykneld Homes) explained that it was complex for Rykneld to manage this because of housing law.

Members felt that Rykneld Homes had been providing a very good service, and links between them and the Council might strengthen when both were in the same building at Mill Lane.

RESOLVED – That Committee noted the update.

OSC/ Scrutiny Review (Interview)

54/2

2-23

The Chair welcomed the Principal Planning Enforcement Officer to the Environmental/Planning Enforcement service review interview.

The Chair explained that the following questions had been submitted to the Principal Planning Enforcement Officer prior to the meeting:

1. How do the Planning and Environmental enforcement teams work together on environmental enforcement cases?
2. How do the Planning and Environmental enforcement teams work with outside agencies on environmental enforcement cases?
3. What do you think is best practice?
4. Is the Council working with partners effectively?
5. Which partners are the most difficult to contact?
6. How are enforcement queries handled and what processes are in place to track them?
7. How quickly are queries dealt with?
8. Do you have any suggestions for improvement?

The Principal Planning Enforcement Officer presented his responses as follows:

1. How do the Planning and Environmental enforcement teams work together on environmental enforcement cases?

There are a range of different frameworks set out in legislation that the Council's various enforcement teams work within.

- As the law surrounding environmental enforcement is considerable and very broad, it is not possible for one team to know everything to do with all aspects of
- We each have our own specialism, knowledge and expertise
- We each have our own support network for help and guidance e.g. planning officers to discuss planning merits.

Planning law prescribes circumstances where local planning authorities are required to consult specified bodies prior to a decision being made on an application.

The decision maker (e.g. planning officer), decides who to consult.

Similarly, the planning enforcement officer will decide who to consult, seek advice and help from, where there is a breach of planning control.

Officers understand what can be taken into account in planning and what cannot. If it's something planning cannot take into account then it may be best dealt with by another team.

We carry out some initial investigations at this point we may know

- Is it a Rykneld property? Is there a tenant?

- Is it Council property, rented, sub-let?
- Information on Council tax records, business rates?
- EPR register, are the owners dangerous etc.?

The allegation determines who we get involved and when

- Use of land involving noise, burning etc. then we will ask EH.
- Use of buildings involving breeding dogs then we ask Licencing.

Share evidence and information on investigations, write witness statements etc.

Make an assessment of urgency, how quickly something needs to be dealt with or stopped.

Planning isn't necessarily a quick fix, but can have lasting effects for controlling development.

Set up the Corporate Enforcement Group (CEG) where we discuss high profile/priority cases and increase information sharing between Council departments.

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Conscious of the customer – rather have a single point of contact however reports could be made either via email or through the 'report it' function on the Council's website.

- Some of this information has to be asked through formal channels with internal sharing agreements GDPR – taken time to implement.
- Other cases we can go to individual officers
- Officers may have given comments on a particular development
- We've recently allowed access to our spatial mapping data.
- We're uploading more information to our mapping system and making that available.
- Some cases morph from strictly planning issues into something much more serious.
- Our actions can jeopardise criminal investigations

2. How do the Planning and Environmental enforcement teams work with outside agencies on environmental enforcement cases?

Planning authorities are required to consult specified bodies prior to a decision being made.

Officers understand which agency to consult based on any breach of planning control.

- Guidance is given in the PPG
- Officers know through experience
- Overlap in planning functions between County and District – abuse of process to get this wrong.

We make a planning judgement which issues we need to involve external agencies in.

There are prescribed timescales for responses in planning process which don't apply to enforcement. If we don't receive any help or advice, then we may need to act without that advice.

3. What do you think is best practice?

Officers exercise judgement to see if and when help and advice is needed – minimises the burden on partner agencies.

- Understand that if we're seeking advice then the situation warrants it
- Robust in deciding where another agency needs to lead
- could be complications from being a landowner
- Easier and more appropriate powers

Making contact with the owner/developer as soon as possible.

CEG group.

ASB meetings with Police.

Carry out joint site visits where possible, Information sharing protocols.

Complicated high priority issue is multi-agency working.

4. Is the Council working with partners effectively?

Yes, but once partners are engaged. Internal working (e.g. EH and EP) is excellent.

Each partner will have its own priorities –

- Have their own caseload, which they no doubt prioritise,
 - What might be important to us, might not be for them. We can't influence that.
 - Have their own threshold for action.
 - We may want a particular partner to progress something, but they're not willing to because it's not expedient.
 - Might be part of a wider issue, too narrowly focused.
 - Not required to give advice, unlike the Planning Application process.
- Means we may need to progress without key stakeholder involvement.

- Ombudsman Case.

5. Which partners are the most difficult to contact?

Each partner has a different preference for being contacted

- Private utility companies – ones which the Council has no control over.

- EA is the most difficult because it's a national contact centre. Can sometimes take several months to receive a reply – brief is so broad that most district level matters aren't a priority
- Processes may have been introduced to deal with volume of emails and enquiries
- All agencies and partners are dealing with increased caseloads.
- Whether we have an 'in' – a personal basis/relationship works best.
- Key strengths is working well with individuals – because we filter out issues that aren't relevant.

6. How are enforcement queries handled and what processes are in place to track them?

Alleged breach is recorded in the Council's planning database – enquirers are attached to the breach.

Improved the reporting forms on the website and we've instructed customer contact centres to refer people on.

Telling people how they can expect enquiries to be dealt with –

- That we won't normally contact them with updates until something is closed
- We will accept further information is that helps our investigations
- That we can be contacted if they've not had a response
- Updated email and website enquiry forms

Investigating enquiries within the priorities and timescales set out in the Local Enforcement Plan.

Keep a record of events on the system

- dates of communications
- substance of telephone conversations
- Progress of investigations
- Who we've contacted and the updates we're waiting for
- Next steps

Carry out site visits based on Parish to minimise travel and maximise time and resources

Priorities are constantly being assessed and changing –

- Depends on the number of active cases.
- The severity of the breaches at any one time

Have regular case reviews and admin days.

- Might not know an application has been approved and that we can close a case.
- Help on deciding expediency – NE reports
- Investigations prove fruitless – decisions made on expediency

7. How quickly are queries dealt with?

The context of the overall workload - we have a significant backlog of cases:

- Now we have sifted through most of the historic cases, many are high priority and serious breaches which are very time consuming.
- Dealing with appeals
- Ombudsman investigations
- Saw an increase of 80% in reported cases in 2021/22.
- Perhaps a result of pandemic, but new case load has not reduced
- Enforcement notice register – significant admin task
- IT issues present set-backs

Depends on what's alleged and its priority/urgency and whether a breach is found or not.

- If we find no breach then we may investigate and update the enquirer that day.
 - If we find a breach, it may then take time to investigate fully and then even longer to see through to completion.
 - E.g. a shed in a garden is relatively easy - some of the big housing developments are incredibly difficult to unpick
 - Grounds of appeal
 - Expediency – public interest test
 - Appeals backlog – one appeal decision in the last 15 months.
 - Not like a planning application – that assumes PP is required
 - We must consider whether it's development,
 - What it is – if it's a use, what are the uses?
 - Is it Permitted Development – requires assessing guidance, case law
 - appeal decisions
 - Is it lawful? Evidence gathering, PCNs
 - The planning history, previous lawful uses any planning permissions;
 - Information is difficult to retrieve, planning history might not be complete
 - Site visits have to be carried out. Difficulty accessing sites, contacting owner/developers
 - Often dealing with people with terrible personal circumstances
 - Enforcement action carries rights of appeal and these are picked over by Barristers
 - Admin intensive –LB breaches for example are criminal offences - everything has to be saved and recorded. Have a 0.6 technician who does admin, but she has her own case load
- We're digitising the planning enforcement notices within the context of increased workloads.

Speed at which queries are dealt with depends on the

- Agency of the enquirer, knowledge, background etc.
- Everyone is now an expert on planning – google, availability of case law.
- Motivations of the enquirer.

How the party contravening planning rules engage with the Council –

- How easy it is to make contact with them
- How willing they are to resolve the issue
- Some issues may be finely balanced

- Make a planning application
- Whether they stop or carry on

The 'what about them' factor

- Government intending to introduce a range of planning targets relating to enforcement – case closed in 6 months, number of cases over 6 months

9. Do you have any suggestions for improvement?

A number of suggestions were put forward to Members which included reporting channels and mechanisms, proactive enforcement, training and Local Enforcement Plan amendments.

Members asked who could make the decision if there was an Enforcement offence on a highway. The Principal Planning Enforcement Officer explained that the decision would be made by him, since enforcement did not have a statutory committee overseeing its decisions

Members enquired if the digitised system in place was fit for purpose. The Principal Planning Enforcement Officer explained that the system could sometimes be difficult to use, but the service had a requirement to utilise it.

Members asked the Principal Planning Enforcement Officer what the service's stance was on information sharing. Members were informed that Enforcement information sharing was tightly regulated.

Members enquired if the public were informed that Enforcement cases could take up to three years to be resolved. The Principal Planning Enforcement Officer explained that in these cases, people would be referred to the Enforcement Plan.

Members suggested that the Principal Planning Enforcement Officer could present reports to a Committee on the number of Enforcement cases.

Members enquired if the Principal Planning Enforcement Officer felt that the service was understaffed. Members were informed that the service was very busy and could use some help with administrative tasks, but the same was true of every service in the country.

Members enquired where the service reported to when Enforcement action had been taken. They were informed that in these cases, the Planning Committee was notified.

Members felt that there were occasions where Members had Enforcement issues to inform the service about but had not been successful. The Principal Planning Enforcement Officer explained that all issues Members had should be sent to him.

The Chair thanked the Principal Planning Enforcement Officer for attending.

The Committee considered all of the evidence which it had received during its review of the Council's Planning Enforcement Service.

The Committee identified areas of good practice such as:

- Officers on top of the job
- Every breach dealt with
- Software working well
- Good digitisation
- Now have an Enforcement team
- Team functioning at its maximum
- Ombudsman case – due process followed

Members also highlighted a number of areas for improvement. These included:

- Help with staffing numbers (admin staff)
- Better communication
- Number of emails being received means some are missed – one point of contact is important
- Perception of difficulties
- Communicating to the public the service's prioritisation methods
- Too many cases – cannot deal with them all
- Member Training – to improve Member awareness of cases and be able to report back to Parish Councils
- No KPIs for service
- Might not want to take action
- Some partners difficult to communicate with but this is generally down to factors outside of the Council's control
- Local Enforcement Plan needs updating
- More regular reporting to a Committee
- Standard response at start of process

RESOLVED – That the draft report on the Committee's review be prepared and submitted to Committee for approval.

OSC/ Forward Plan of Executive Decisions

56/2

2-23 RESOLVED – That the Forward Plan of Executive Decisions be noted.

OSC/ Work Programme

57/2

2-23 The Senior Scrutiny Officer informed Members that the next scheduled meeting of the Committee had been moved from 16 May 2023 to 18 April 2023.

RESOLVED – That the work programme be noted.

OSC/ Additional Urgent Items

58/2

2-23 There were no additional urgent items.

OSC/ Date of Next Meeting
59/2

2-23 The next meeting of the Organisation Scrutiny Committee was scheduled to take place on Tuesday 18 April 2023 at 10.00 am.