

# **Bath and North East Somerset Council**

## **PARISHES LIAISON MEETING**

### **Minutes of the Meeting held**

Wednesday, 22nd October, 2014, 6.30 pm

Councillors: Martin Veal (Bath & North East Somerset Council) (Chairman), Paul Crossley, Tim Warren (Bath & North East Somerset Council) and David Veale (Bath & North East Somerset Council)

Representatives of: Batheaston, Clutton, Combe Hay, Compton Dando, Dunkerton, Englishcombe, Farmborough, High Littleton, Keynsham, Marksbury, Monkton Combe, Newton St Loe, Peasedown St John, Priston, Publow with Pensford, Saltford, Shoscombe, South Stoke, Stanton Drew, Timsbury, Whitchurch,

Also in attendance: Tony Crouch ( President ALCA)

Officers attending: Dr Jo Farrar (Chief Executive), Lisa Bartlett (Divisional Director, Development, Planning and Transport), Simon de Beer (Planning Policy and Environment Manager), Andy Thomas (Group Manager, Partnership Delivery), Richard Stott (Principal Planning & Enforcement Officer).

#### **14 WELCOME AND INTRODUCTIONS**

The Chairman of Council, Councillor Martin Veal, welcomed everyone to the meeting.

#### **15 EMERGENCY EVACUATION PROCEDURE**

The Clerk read out the emergency evacuation procedure.

#### **16 APOLOGIES FOR ABSENCE**

Apologies for absence were received as follows:

B&NES councillors: David Bellotti, Sally Davis, Charles Gerrish, Eleanor Jackson, Dine Romero

Parish Representatives: Camerton, Corston, East Harptree, Kelston, Hinton Blewett, West Harptree, Ubley

Officers: Louise Fradd

**17 URGENT BUSINESS AS AGREED BY THE CHAIR**

There were none.

**18 MINUTES OF PREVIOUS MEETING**

The minutes of the last meeting on 18<sup>th</sup> June 2014 were proposed for approval by Peter Duppa-Miller, seconded by Councillor Tony Crouch and signed by the Chairman.

**19 CONNECTING COMMUNITIES**

Andy Thomas, Group Manager, Partnership Delivery, introduced this item which highlighted progress with the Connecting Communities Project. He informed the meeting that 3 Connecting Communities forums were now running and a cycle of meetings had been established. At present, the 3 forums do not cover all of the parished areas yet, but that will follow in the future. He wished to register his thanks to all the parishes who had already taken part for their co-operation. After the national and local elections in May 2015, a series of conference-style events will be held. The Bath City Conference was already successfully established.

Peter Duppa-Miller added that the 3 wards (21 parishes) not yet covered by the forums were those in Bathavon and that he hoped that they would create their own forum.

A representative of Keynsham Town Council commented that there had been difficulties in getting the Clinical Commissioning Group and Curo involved in the forums.

**Action:** The Chief Executive offered to take this issue to the next meeting of the Public Services Board.

**20 WORKING GROUP TO STRENGTHEN COMMUNITY REPRESENTATION AND CIVIC GOVERNANCE WITHIN BATH**

Andy Thomas, Group Manager, Partnership Delivery, introduced this item. He informed the meeting that the Elected Members Working Group had identified a wide range of options and wished to encourage parishes to engage with this issue and comment. For the future, the parishes will be kept informed of progress with the consultation process which will include presentations from other areas of the country.

The Chairman thanked Andy Thomas for his reports.

## 21 LOCAL DEVELOPMENT FRAMEWORK UPDATE

Simon de Beer, Planning Policy and Environment Manager, introduced these items relating to the Local Development Framework.

### Core Strategy

The Strategy has now been adopted and there had been no legal challenge, so therefore the adoption has been confirmed. This means that the Council is on a much more robust position to defend challenges from developers.

With regard to the urban extension sites, the Core Strategy requires that the developers prepare a Masterplan in consultation with the community and the Council. Developers have indicated their willingness to do this and work with the local communities.

The clerk to Combe Hay Parish Council informed the meeting that the first exhibition of proposed development of land at Odd Down would be on 3<sup>rd</sup> November.

### Placemaking Plan

Simon de Beer informed the meeting that there had been a positive response from parishes to developing placemaking plans and that the quality of the plans was very high. The options document will be presented to the Cabinet in late November and the consultation period will continue till January 2015.

Councillor Paul Crossley wished to record his thanks to Stanton Drew Parish Council for inviting him to their placemaking planning day. He informed the meeting that he was happy to attend other parish planning days, as was Councillor Tim Ball.

### Housing Development Boundaries Review

Simon de Beer informed the meeting that the department had had a good response to the review, with responses from 15 councils to date. These will be included in the Placemaking Plans.

The Chairman asked whether the ward councillors were involved in these reviews and was informed that they were, along with the LDF steering group.

### Community Infrastructure Levy (CIL)

Simon de Beer informed the meeting that the consultation on this issue had been completed and it would be submitted for examination in December. A corporate decision would be made as to how the levy would be spent.

The secretary to the Local Councils Association asked whether it was likely that developers will challenge the levy and delay the process. Simon de Beer replied that it was unlikely. The rates are at the high end, but a significant buffer has been included. Section 106 issues have also been taken into account. The Inspector has the option to lower the rate, having assessed our levy. A representative from Batheaston Parish Council asked whether the Section 106 agreement was defunct and was informed that it would work in tandem with the CIL.

### Gypsies, Travellers and Travelling Show People Site Allocations Plan

Simon de Beer informed the meeting that the Local Development Scheme had just been reviewed. Work has been delayed to ensure that all adjoining local authorities have a good evidence base as the Strategy requires neighbouring councils to work together on this issue. Once that has been achieved, sites in the West of England can be identified. The Chairman asked when the West of England consultation would be going public and was informed that it would not be publicised as its purpose would be as a background technical document for informing the local authorities. It would eventually be published in Autumn 2015.

A representative from Compton Dando Parish Council asked how the parishes join in the consultation and was informed that a link to the consultation would be sent to all parishes. A representative of Monkton Combe Parish Council asked whether the Council could afford to identify any more sites, given the cost of the Lower Bristol Road site. Councillor Crossley replied that there had been misinformation about the cost of that site.

## **22 UPDATE CONCERNING HYDRAULIC FRACTURING 'FRACKING' IN B&NES**

The meeting noted the briefing note prepared by Phil Mansfield (Group Manager, Building Control).

Peter Duppa-Miller added that the only PEDL area currently licenced in this region is PEDL 227 which covers the southern part of B&NES and into Somerset. Details can be found on this website:

<http://www.ukogil.org.uk/webmap/index.html>;

The holder of the PEDL 227 licence has very recently indicated that they will be submitting a planning application for an exploration borehole within the PEDL 227 area and most likely within the B&NES district. The exact location is not yet known as they are in discussions with land owners. UK Methane have said that they will consult with ward councillors first. The 14<sup>th</sup> round licence offer closed on 28<sup>th</sup> October 2014, so additional areas could be licenced.

Councillor Crossley informed the meeting that he had written to the government about the two returned licences and had asked for them not to be included in the re-tendering process, but to no avail. He and Phil Mansfield would be addressing the upcoming shale gas conference about the potential difficulties caused to Bath and the Mendip Hills by the fracking process.

## **23 PLANNING ENFORCEMENT UPDATE**

Richard Stott, Principal Planning Enforcement Officer, informed the meeting that his department had undergone major changes in the past 6 months. 3 full-time planning and development control professionals had been recruited who would be implementing the Enforcement Plan (see attached documents). This had enabled the team to take actions against contraventions. Also, where possible, they had turned complaints

into retrospective planning applications and achieved compromises through negotiation. Actions needed to be appropriate and proportionate. Richard thanked the parishes for their patience as the department dealt with the backlog of complaints.

The Chairman said that he was pleased to hear that the backlog was clearing and asked whether there was a definition of expediency in these matters. Richard Stott replied that many issues were about disputes between neighbours where the public thought that the department could act as mediator, but where the government has granted permitted development rights, the Council has no remit to step in. They might use expediency where there were minor contraventions of the planning rules. Some are more like a nuisance rather than a breach – they would be judged on a case-by-case basis.

A representative from Saltford Parish Council asked whether the parishes will be kept informed as in the past, due to the constraints on the computer system, only the person logging the complaint was notified. Richard Stott replied that, unless the case officer was aware of the parish interest, they might not realise that they should be informed. In North Somerset, the planners publish a quarterly report on the progress of planning applications – the B&NESteam were looking at this option and others as ways to improve communications. The representative from Saltford was not satisfied with this response and stated that parishes wanted clear action. Lisa Bartlett, Divisional Director, Development, Planning and Transport, replied that they accepted there was a problem but that the department were determined to improve communication with the parishes and release as much information as they could.

A representative from Compton Dando asked how long the process of retrospective planning application lasted. Richard Stott replied that, under the Localism Act, additional provisions were brought in around enforcement, giving local authorities the power to reject the application if there are repeated attempts to circumvent the enforcement notice. Representatives of Monkton Combe and South Stoke Parish Councils asked when the planners would serve a 'stop' notice. Richard Stott replied that it was difficult to give a definite answer as there are lots of legal issues around these notices. They have to consider whether there would be public harm or loss of residential amenity and weigh up the compensation risk. However, they could use temporary 'stop' notices while options are considered.

## **24      PROGRESS WITH THE IMPROVEMENT IN RURAL BROADBAND**

The meeting noted the report prepared by John Cox and John Wilkinson.

Various issues were raised by parish representatives and so the Chairman suggested that, in the absence of the officer, they address their queries direct to John Wilkinson.

## **25 DATES OF FUTURE MEETINGS**

The Chairman announced that the next Parishes Liaison meeting would be on Wednesday February 25<sup>th</sup> 2014 in the new Civic Centre in Keynsham. The Chief Executive informed the meeting that the Civic Centre and library were now open and encouraged everyone to visit.

The Chairman thanked the officers for their reports and the parishes for their attendance and contributions.

The meeting ended at 7.45 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

## **Parish Liaison Meeting 22<sup>nd</sup> October 2014**

### **Update Concerning the Resourcing of the Planning Enforcement Section**

#### Current Situation

Over the past six months the Planning Enforcement team has gone through a complete transformation which has been challenging however has presented an opportunity for real change.

We have recently appointed three full time members of staff. Two new members joined the team at the beginning of October and the final member starts on the 27<sup>th</sup> October.

The team now comprises of myself as the Principal Officer and I have one part time senior officer and four full time officers.

The new team is made up of planning professionals all of whom have experience of planning from varying backgrounds. The team will be dealing with both the investigation of enforcement complaints as well as considering retrospective planning applications drawing on their relevant experience and knowledge.

In addition to the recruitment of new staff we continue to work in accordance with the Local Enforcement Plan which was adopted in 2013. The Plan sets out how we priorities cases, how we deal with complaints and what the customer can expect from the service. I can provide copies of the Plan to any Parish that has not yet seen it.

By way of an update in terms of the team taking direct action, it is regrettable that the press have not run our “good news stories” however we have secured three successful prosecutions this year; two for an unauthorised dwelling in the green belt and one for the felling of a TPO protected tree. In addition we have recently utilised our powers to halt works on a building that was diverging from its approved plans (allowing us the time to work out the most appropriate course of action in the face of significant local interest).

Direct action is of course always the last resort and I am pleased to inform you that we have managed to resolve the majority of complaints through negotiation and have seen a rise in the number of retrospective applications being submitted to regularise unauthorised works.

## Aim of the Restructure

My primary consideration when recruiting the new team was to ensure that we have a team made up of planning professionals who are equipped with the knowledge and expertise to tackle difficult issues, offer advice in a timely manner and present solutions or compromises through negotiation.

It is my aim to have a team who will bring continuity to the job. With professional planners in post it is my expectation that they not only investigate breaches in planning control but, where appropriate, negotiate acceptable solutions which could include seeking retrospective planning applications to ensure the breach is dealt with in the most appropriate, legitimate and democratic manner.

I am confident that the new team brings a level of professionalism of the section which in turn will improve the public perception of planning enforcement in a more transparent manner, ultimately improving the overall level of customer service.

## Priorities

I would like to thank all of the Parishes for their patience and support during the recent months whilst we have reformed the enforcement team.

My biggest priority at present is to clear the existing backlog of complaints. At the start of October, following the resignation of one officer and the move of two other officers into the development management team, we had a backlog of nearly 150 cases that had not been allocated to case officers. I have managed to reduce the backlog to under 40 and with the new member of staff starting on the 27<sup>th</sup> I anticipate we will be back on top of our workload.

The team are currently engaged in contacting complainants to provide a new point of contact and conducting site visits to establish the facts of investigation. In the past two weeks the new members of staff have managed to get on top of over 60 cases and are continuing to work hard to ensure the section does not fall behind.

Communication is my second major priority, I am aware that there have been issues regarding the level of communication with the public and the parishes and town councils as to the progress of cases. It will not always be possible to provide a running commentary on each and every cases (and in some instances it will not be appropriate to disclose all the information due to political or legal sensitivities), however we have a commitment set out in the



Local Enforcement Plan to provide an update when necessary or every 4-6 weeks and I have instilled this doctrine in the new team.

Better negotiation is my third priority. Formal enforcement action is always regarded as the last resort and in my view is an indication that we have failed to negotiate properly. In most cases it will be possible to find a resolution through negotiation and this is a course of action enshrined in government policy, in some cases however negotiation will not be possible and only then will we seek more formal action provided it is appropriate and proportionate to do so.

My final priority is to make enforcement information more accessible. Clearly we cannot disclose all information relating to enforcement cases however enforcement reports and notices should be publically available and it is my intention that these will be available on our website. Allowing the public to access the reports which set out why or why not action is being taken will make the whole process more transparent and will assist with bringing consistency and integrity to the enforcement section.

Rich Stott  
Principal Planning/Enforcement Officer  
Development Management

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# LOCAL ENFORCEMENT PLAN



**Published March 2013**

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**Bath & North East  
Somerset Council**

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## Introduction

The National Planning Policy Framework (NPPF), (Paragraph 207) recommends Local Planning Authorities publish a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area. This Local Enforcement Plan sets out how alleged cases of unauthorised development will be investigated and outlines the Council's discretionary powers in relation to planning enforcement. This plan sets out the priorities for responses to complaints and the relevant timescales. The Local Enforcement Plan sets out the standards individuals and organisations can expect from Bath & North East Somerset Council in carrying out its planning enforcement functions.



## **The objectives of the enforcement process are to:**

- Investigate, resolve and monitor unauthorised planning development and works to listed buildings.
- Investigate, resolve and monitor unauthorised works to protected trees and hedgerows.
- Monitor compliance with planning permissions, conditions and planning agreements.
- Respond to complaints in an efficient and timely way.

## **Priority**

Allegations about breaches of planning control will be investigated thoroughly and accurately in accordance with the following order of priority:-

### **High Priority**

- 1) Unauthorised demolition, partial demolition or a significant alteration of a building, which it is essential to retain (e.g. a listed building or building within a Conservation Area or World Heritage Site) or any other development that causes irreversible demonstrable harm.
- 2) Unauthorised works to trees covered by a Tree Preservation Order (TPO) or in a Conservation Area.

### **Medium Priority**

- 3) Any unauthorised development/activity which, causes clear, immediate, and continuous harm or danger to the locality including the amenities of adjoining residents.
- 4) Breach of a condition, which results in serious harm to amenity in the neighbourhood.
- 5) Unauthorised development in an Area of Outstanding Natural Beauty, Green Belt, Site of Special Scientific Interest (or other national designation of nature conservation), or Conservation Area or where an Article 4 Direction has been issued or in the area of Townscape Heritage Initiative/Heritage Economic Regeneration area, or a registered and locally important historic park and garden.
- 6) Any unauthorised development where the time limit for enforcement action will expire within the next 6 months.
- 7) Unauthorised development, which is the source of significant public complaint.
- 8) Unauthorised advertisements.

### **Low Priority**

- 9) Unauthorised development, which would be likely to receive planning permission if a planning application were to be submitted.



## Principles

The integrity of the Local Planning Authority (LPA) and Development Management function depends on the Council's ability to take appropriate enforcement action. Without this function the Council would be unable to monitor unauthorised or non-complying development within the District.

This enforcement policy incorporates and is consistent with the Enforcement Concordat produced by the Government's Better Regulation Task Force and embraces the principles of:-

- Consistency - Each individual matter will be considered on its merits; there will be a consistent approach to enforcement action in similar circumstances. It does not mean uniformity.
- Proportionality - As far as the law allows, the Planning Service will take account of the circumstances of the case and the degree of harm or potential harm in planning terms when considering appropriate action
- Openness - The Planning Service will:
  - i. keep complainants, owners/developers, Ward Councillors, Parish Councils and Town Councils informed about any formal action, including case closures, with all investigations;
  - ii. Make it clear as to why the Council has decided to take or not to take formal enforcement action or why the case has been closed.
  - iii. Enforcement cases resulting in formal action will be made available on the Council's public access system, similar to planning applications. [NB. These will only be in respect of statutory reports, Notices and appeal documentation.]
  - iv. Review performance regularly and publish results.

The use of formal enforcement action will be as a last resort and shall not be used without first seeking a solution through negotiations. Whilst the Council will endeavour to overcome any harm caused by unauthorised development by negotiation wherever possible, the enforcement system rapidly loses credibility if unacceptable developments are perpetuated by prolonged or protracted enforcement discussions. Therefore a time limit for concluding negotiations will be considered in every case. This will have regard to statutory time scales (for an application and/or appeal). It should be noted that by its very nature Planning Enforcement is a lengthy process during which there may be periods in which no formal action is taken.

The Council's planning enforcement team will therefore only investigate those matters that constitute a breach of planning control within the terms of the Town Country Planning Act, 1990 (as amended) and Part 8 (High Hedges) of the Anti-social Behaviour Act 2003.

In deciding whether to take enforcement action the Council will have regard to the development plan and to any other material considerations including National policies and procedures.





## Expediency

In considering whether it is expedient to take enforcement action the decisive issue for the Council will be whether the breach of control would unacceptably affect public amenity, whether it would give rise to a serious risk to public safety or the existing use of land and buildings merit protection in the public interest. Any action taken will be commensurate with the breach of control to which it relates.

In considering whether to take enforcement action the Council will not give weight to the fact that development may have commenced. It is not a criminal offence to carry out development without planning permission (unless it involves a listed building). It is merely unauthorised and no criminal offence has been committed. It is therefore important that unauthorised developments are treated on their individual merits in the same way as proposed developments. The test to be applied will be “would planning permission have been granted for this development had it been the subject of a planning application”?

Where it is assessed that it is likely that planning permission would be granted for the development, the person responsible will normally be invited to submit a retrospective planning application. It will generally be inappropriate to take formal enforcement action against a trivial or technical breach of control, which causes no harm to amenity in the locality of the site.

The person against whom an enforcement notice is served has rights of appeal which must be respected although this may result in some delay in securing a resolution.

In considering whether to take enforcement action, the Council will not give weight to non-planning considerations. It is not the purpose of the planning system to protect the private interests of one person against the activities of another. Action must be based on sound planning grounds. Local opposition or support for unauthorised development will not be given weight unless it is founded on valid planning reasons.

**The Council will take formal enforcement action only where it considers it expedient to do so.**



## Customer Expectations

Customers can expect:

- A prompt, efficient and effective response.
- Following investigation the complainant and other interested parties will be notified of any following action and the reasons for that decision. This will include notification where no action can, or is to be taken.
- Unless immediate action is required, officers will endeavour to negotiate compliance or resolution and to provide the opportunity to discuss the circumstances of the case before formal action is taken.
- Where immediate action is considered necessary, an explanation of the reasons will be given at the time and confirmed in writing together with a time scale for implementation.
- Where formal action is taken by the Local Planning Authority issuing a statutory enforcement notice, all parties served with a copy of the notice will be informed of the appeal procedure and advised in writing of the consequences of non-compliance with such a notice.
- The Council will consider prosecuting individuals or organisations who do not comply with any formal notice served on them, and will consider taking direct action, where necessary, having regard to degree of harm and public safety.
- Where no formal action is considered appropriate, the reasons will be given to the subject and the complainant.
- The Council's Scheme of Delegation will be applicable in all cases.

## Responding to Complaints

The Council receives approximately 700 complaints regarding alleged breaches of planning control every year. Although, many of these do not result in formal enforcement action, many require lengthy investigation over several months, and therefore the Council must give priority to those cases where the greatest harm is caused.

- Depending on the seriousness of the alleged breach, resources and response times will be allocated accordingly:
- Complaints will be acknowledged within **5 working days** of receipt.
- Complainants, Ward Councillors, Parish Councils and Town Councils will be kept informed of progress of their complaint on a regular basis (at least every 4 – 6 weeks).
- Officers will endeavour to undertake an initial investigation within **2 working days** of all 'High' priority complaints.
- Officers will endeavour to undertake an initial investigation within **10 working days** of all other complaints.

## Submitting a Complaint

A complaint about an alleged breach of planning control can be submitted by anyone, including private individuals, public bodies, elected members and council officers.

All complaints should be submitted in writing and include the following:

- The address of the property or exact location where the alleged breach has taken place.
- The nature of the alleged breach.
- The name and address of the complainant.
- A contact telephone number/ email address.
- Any evidence available including a plan if possible.

In order to ensure there is no misunderstanding in the detail or the validity of the complaint, all telephone complaints must be followed up in writing with the information identified above. Every effort will be made to keep Complainant's details confidential subject to the provisions of the Freedom of Information Act and other associated legislation. Such details are necessary to establish the validity of the complaint and to enable complainants to be kept informed. Complainants should however be aware that in some cases it may be a relatively simple deduction for a subject to identify the source of the complaint.

Anonymous complaints will **not** be investigated, although complainants are encouraged to refer the matter to either their elected Ward Councillor or their Parish Council or Town Council to advance their complaint, should they wish to remain anonymous.

## Other advice

Planning Services have produced advice notes and information on enforcement matters in relation to trees, hedgerows and high hedges

