

**MINUTES OF A MEETING OF THE  
CORPORATE SERVICES OVERVIEW AND SCRUTINY COMMITTEE  
HELD ON MONDAY 8 SEPTEMBER 2014 FROM 7:00PM TO 9.10PM**

*Present:- Norman Jorgensen (Chairman), Michael Firmager (Vice-Chairman), Parry Batth, Chris Bowring, Kate Haines, Ken Miall, Rachelle Shepherd-DuBey and Shahid Younis.*

*Also present:-*

*Tom Berman,*

*Neil Carr, Head of Neighbourhoods*

*Marcia Head, Service Manager Regulation and Compliance*

*Kevin Jacob, Principal Democratic Services Officer;*

*Clare Lawrence, Head of Development Management and Regulatory Services*

*Philip Meadowcroft*

*David Sleight*

## **PART I**

### **8. MINUTES**

The Minutes of the meeting of the Committee held on 2 July 2014 were confirmed as a correct record and signed by the Chairman.

### **9. APOLOGIES**

There were no apologies for absence.

### **10. DECLARATIONS OF INTEREST**

Michael Firmager declared a personal interest in Item: 15:00 Burials Provision Update on the basis that the Mays Lane Cemetery owned by Earley Town Council was referred to within the report and he was the Chairman of the Amenities and Leisure Committee at Earley Town Council.

Ken Miall declared a personal interest in Item: 14:00 Planning Enforcement Service on the grounds that he had met Philip Meadowcroft who was asking a public question on the subject of the Planning Enforcement Services at the meeting through his work.

### **11. PUBLIC QUESTION TIME**

At the commencement of this item the Chairman informed the Committee in addition to a public question submitted by Philip Meadowcroft relating to Planning Enforcement Service, he had also received a request from Tom Berman to make a deputation to the Committee about the issue. He explained that there was provision for this within the Council's Constitution under paragraph 3.1.4 which dealt with public participation and that he had agreed to the request on the basis that the deputation should be no longer than five minutes in duration.

#### **11.01 Deputation to the Committee by Tom Berman**

The following is a summary of the points made by Tom Berman:

- In requesting the deputation he and Philip Meadowcroft had wanted to have a direct dialogue with Members of the Committee about planning enforcement, not Officers;
- In 2013, the Council had been worried enough about the Planning Enforcement function to commission an outside consultant John Silvester Associates to undertake a review of the department. In summary the Silvester review had stated that *'the*

*Council's Enforcement Service has been found to inadequately cover the essential requirements of an effective, proactive service' and 'the service was not fully fit for purpose'*

- As the Silvester report was written by a respected ex Council planning chief it could not be more damning;
- The circumstance of a Council department becoming unfit for purpose was not something that had arisen over night and in the case of the Wokingham Borough Council's planning enforcement service it had occurred under the Planning Department Management;
- In these circumstances it was not unreasonable for residents to treat this situation as a crisis and expect the matter to receive urgent attention from their elected representatives.
- It was accepted that the Committee was considering a report about the planning enforcement service, which contained warm words about the need to more proactive and robust in enforcing with 'Zero Tolerance' although in Mr Berman's view, residents were hardly yet experiencing an improvement in service;
- It was recognised that the position had improved and was in a better place over that which had existed prior to the Silvester report 18 months ago;
- It would require closest attention and determination by Councillors to turn around and reform what was a not fit for purpose service by ensuring that reform was achieved;
- The task of 'getting a grip' of the planning enforcement service had been given to the Corporate Services Overview and Scrutiny Committee which was minuted as agreeing in June 2013 to establish a Task and Finish Group and that Messrs Meadowcroft and Berman be invited to attend as witnesses;
- The Members of the Committee were challenged as to whether they had recognised their responsibility given that:
  - Not one of the six regular Members of the Committee, (excluding the Chairman and Vice-Chairman) had attended all three of the meetings of the Committee in 2014 that had considered planning enforcement when it would have been expected that the published failings of the planning department would have registered as the highest priority in the Committee's work programme, requiring quarterly reports;
  - Despite the provision of substitutes the meetings had never had full attendance – there had been no consistency of attendance and no sense of urgency shown by Members;
  - It was felt that none of the Members of the Committee had made a substantive contribution for or against any of the plans or proposals submitted by planning Officers.
- The April action plan for the Planning Enforcement Service had included a proposal for the recruitment of additional staff to occur by April /May 2014. This should have been a matter of key importance to the Committee, but Members had not demonstrated that they had established the names, job titles or training of any of these members of staff;
- Members of the Committee had not opposed bad proposals within the Planning Enforcement Charter. An example was the proposal to give local Ward Members a minimum of 48 hours prior notice that it was intended to close down an enforcement case on the grounds that it was 'not expedient' to pursue it. Whilst this was presented as a concession and improvement in service in practice it was not. 48 hours was not enough time for Members to respond, particularly it Members were informed by email prior to a weekend and had to respond by the following Monday morning. This needed to be compared to the targets which Officers set themselves which were expressed in days not hours and more often than not working days. It was

therefore considered by Mr Berman to be an impertinent proposal if not an insult to elected Members;

- Members of the Committee were challenged to ask themselves how they could disabuse the view commonly held by residents that elected Members were only onlookers or alternatively, did the Committee accept that it was accountable and that it needed to get a grip on the detail of the reform of the planning enforcement service.

At this point the Chairman invited Philip Meadowcroft to put his question.

### **11.02 Question**

The Director of Environment's report on the Planning Enforcement Service together with a third attempt at an action plan, refers to a number of matters which have been implemented since the publication of the Silvester report.

My question relates to staffing and resource which the report says has been addressed. The report does not say that there are any more staff tackling enforcement in the Borough. Right now the Borough's most experienced enforcement officer is I gather off sick and another officer dealing with enforcement matters has left. It was the departing officer, Mr Mann who made it public that he loathed the word 'enforcement' in his job title. This is in a department that Silvester has declared to be less than fit for purpose. Addressing issues is all fine and dandy, but it is not quite the same as delivering results.

So will the Director of Environment please clarify the current and prospective staffing situation regarding enforcement Officers?

### **Answer**

At the time of writing the report, the service was fully staffed. However since that time, one enforcement officer has left the council. The service has managed to recruit to this post on a temporary basis to cover the absence and the permanent position is being advertised.

Unfortunately, one other officer is currently on sick leave but this was not something that could be foreseen and it is expected that this will be short term.

The Council has been successful in recruiting a further enforcement officer to the post of Team Manager and who will deal with the complex enforcement cases and appeals. He is due to start next month.

### **Supplementary Question**

The Issues Paper also states that "*a more proactive and zero tolerance approach has been taken.*" But read this carefully, Chairman and Members. The Director of Environment does not know the meaning of "zero tolerance" because it is only being applied, apparently, to those unauthorised developments which have "*significant impacts in terms of safety and amenity*". That, Chairman and Members, is not the application of "zero tolerance" which by definition must apply to all cases of unauthorised development – so is it solely because staff and resource is so limited that the Director of Environment has decided only to conduct selective enforcement?

The report says that '*a draft local enforcement plan*' and "*a charter to reflect standards of service has been produced.*" But where are documents? Chairman and Members, you discussed at the last meeting on 2 July the requirement for this Committee to have an input prior to consultation – not to be mere bystanders and reviewers after the event. No purpose is served by the committee in overseeing and scrutinising done deals. The

Director of Environment needs to be pressed by you, Chairman, to produce these extant documents to this Committee. But again, question. Is non delivery of these documents due to staffing and resource issues?

An Action Plan was submitted at the January meeting of this Committee. It was replaced by an Action Plan at the April meeting. It drew strong criticism from Members for failing to provide clear and definite time lines. At the last meeting of this Committee in April, Councillor Bray said and I quote, *'this Committee needed to contribute to an Action Plan rather than merely receive it'* and the Chairman requested that Clare Lawrence provide greater clarification of the time lines to this September meeting with regard to the consultation and presentation to the Executive of this Local Enforcement Plan which we have not seen. The Chairman's request to Clare Lawrence has neither been acknowledged nor heeded in the latest Action Plan in the Agenda this evening. This third attempt is barely different from the second attempt seen in April and we are now 12 months on from the publication of the unfit for purpose report by Silvester. It does not indicate that the crisis in the department is being tackled head on and that a crucial request from this Committee's Chairman has been ignored. So is this situation precipitated by staffing and resource issues?

The time available to me is, perhaps mercifully, restricted by the Constitution and, whilst there are numerous other points I would like make, I will close. I trust I have given you, Chairman and Members, a sample of issues on which to address Overview and Scrutiny questions this evening to Director of Environment, who I do not think will be present and on which I hope you and the Members, and I, will receive clear and coherent replies to some vital issues.

### **Supplementary Answer**

Subsequent to this meeting we will prepare a written response to the questions as we have them outlined here so that we can do that for the record. Tonight Clare Lawrence was planning to go through a presentation relating to the item on the Agenda and will pick up the points during that.

### **Additional discussion**

At this point, Tom Berman indicated that his deputation had been primarily directed to the Members of the Committee and that it would be helpful if those aspects of the deputation could be addressed by Members in some way.

The Chairman suggested that Members' responses and comments to the deputation could also be considered under the heading of the Public Questions Agenda item and this was supported.

A summary of the points made by Members is below:

- The Chairman commented that the Committee did take the issue seriously. A major way in which the Committee took it seriously was that planning enforcement was the responsibility of the Councillor John Kaiser, the Executive Member for Planning and Highways and the Committee could hold him to account for the performance of the service obtain assurance on the issue. He was aware that John Kaiser was heavily involved in the issue and held number a meetings and the concern;
- The importance of the issue to residents throughout the Borough and to residents within their own Wards was fully recognised by Members of the Committee;
- The Chairman commented that in his experience he had seen examples of planning enforcement service activity including, including within his own Ward, the issuing of a

temporary stop order in connection with a major development. With regard to the closure of enforcement cases the Committee needed to look at the notification timescales, however from personal experience he had received the notices and been able to ask questions if he felt it was necessary and it was an opportunity that had not existed a year or so before;

- Other Members commented that they felt they had taken the issue seriously and considered it carefully. Kate Haines and Rachelle Shepherd-DuBey referred to examples of enforcement activity within their respective Wards which they felt had been successful and of a good standard;
- Michael Firmager commented that whilst it was important to have a full complement of staff it was as important to ensure they were of the right quality and experience. He recognised that this had proved difficult for the Council in the past.

With the permission of the Chairman, Clare Lawrence set out a number of examples of what Officers felt had been successful recent planning enforcement activity and where positive comments about the service had been made by residents and Parish Councils. An example was given of activity within the Swallowfield, of positive feedback from two residents who had raised planning enforcement complaints and had been pleased with the way in which their complaints had been dealt with and letters of thanks from Finchampstead Parish Council and Councillor Smith in respect of the way in which a number of issues they had raised had been dealt with.

Members asked for further detail in respect of what type of complaints about the service had been received. Clare Lawrence responded that because of the nature of planning enforcement opinions tended to be polarised on one side of an issue or another. For example, a complaint might be made by a resident in respect of a neighbour living next door or close by in respect of works or development that the neighbour was undertaking, but the Council after investigation, would not be able to take any action because that development did not require planning permission or there were no controls. In such a situation the person making the complaint might be dissatisfied, but often the resident subject of the complaint would be upset. The Council was caught in the middle, but had to interpret nationally set regulations and legislation. The service did receive complaints from residents concerned that no action had been taken in respect of an issue they had raised and from person complained about that they had been subject to enquiries at all.

It was recognised that complaints were still being made, but it was felt that the relationship between the Planning Enforcement Service, residents, Parish Councils and Wokingham Borough Council Ward Members had significantly improved. Improved communication was an important element of this.

Ken Miall referred to the phrase '*Zero Tolerance*' and asked whether this was phrase that would continue to be used as an expression in planning enforcement or would action continue to be selective. Zero tolerance implied a situation whereby an enforcement issue would always be pursued and decisions not taken to close cases on the grounds of non-expediency.

Clare Lawrence responded that if a development was unauthorised and planning permission was required the Council was required to undertake an expediency assessment because if the development would be granted planning permission anyway it would not be expedient to take action. This was an inherent part of the planning enforcement system. In the current year the Council had decided to take no further action on the grounds of expediency in three cases which was a very small proportion of the total

number of cases. In cases which were being considered for no further action, Ward Members were given 48 hours' notice and the reasons for this given.

Members were also informed that the 48 hour notice period for Members had originally been the suggestion of the Executive Member for Planning and Highway and no Member complaints had been received that this notice period was too short. Officers did apply the deadline in as flexible a way as possible and if queries were raised by Members these were responded to.

Zero Tolerance was applicable where the harm caused by development was significant. This level of harm was key because the Council had to be able justify taking action in light of implications of challenge through planning enforcement appeals and through the courts. Where there was harm against Council policy or people the Council did take action through the serving of a formal notice. However, a Zero Tolerance could not be applied to all cases because of the requirement to be reasonable.

Ken Miall commented that he accepted that the term Zero Tolerance term was intended to be a form of public statement to discourage unauthorised development and could not in practical terms be applied in all cases. He suggested that it would be useful for the Committee to be given some examples of where a decision had been taken not to take planning enforcement action on the grounds of expediency.

The point was also made that it was harder for Members to track the implementation of recommendations and progress because the Council had used different terms for documents to those set out within the Silvester Report. The example was given the 'Enforcement Charter' within the Silvester Report which had a different name within the Council's own documents. It was suggested that a Glossary of Terms would be useful.

Members suggested that for the sake of clarity, it would be useful if it could be made explicit within the appropriate policy that the 48 hours related to working hours. Clare Lawrence indicated that this was something that could be looked into.

The Chairman commented that in response to the question and challenge to the Committee from Mr Meadowcroft as to whether the Committee could disabuse the public's view that Members were merely onlookers, he felt that during the discussion a number of examples had been given of active Member involvement and that all Members would respond that they were involved in planning issues within their wards. The Committee was accountable and ultimately it was open for the public to vote Members out of office if they were dissatisfied with them.

## **12. MEMBER QUESTION TIME**

There were no Member questions.

## **13. PLANNING ENFORCEMENT SERVICE**

The Committee received a report, as set out on Agenda pages 5 to 15, which advised Members of the progress to implement the action plan for improvements to the planning enforcement service, in line with the outcome and recommendations of the independent review of the planning enforcement service.

In introducing the report to the Committee, Clare Lawrence commented that the actions set out in the action plan formed part of a rolling programme and would take some months to be implemented. When the action plan had been presented to the Committee in April

2014 it had set out some of the successes that had been made in implementing actions, and work undertaken, but that the current report aimed to further develop some of the ideas mentioned.

Members were referred to page 6 of the Agenda which referred to further actions undertaken since April. The Committee was updated that the Council had been successful in the recruitment of an experienced Senior Enforcement Officer who was due to join the Council in October. This would increase the staff establishment of the Enforcement Team from three Officers plus a Service Manager to four Officers plus a Service Manager. This would enable the service to do focus on the more complex case workload which had a significant impact. It had been necessary previously to outsource these more complex cases to consultants at a higher cost and it was also felt that the Council would be able to be more responsive by dealing with such cases in house in the future. In addition funding had been identified to enable the recruitment of an additional Officer to help with customer focus and develop constructive relationships with Ward Members and Towns/Parish Councils.

Clare Lawrence commented that the recommendations of the Silvester Report had been pulled together under the banner of a Local Enforcement Plan. The enforcement plan would set all out targets, policies and procedures including a process about consultation. A draft plan had been produced by John Silvester and Officers had responded with comments. After a process of redrafting it was expected that an undated draft would be completed by the end of September 2014 and after this the report would be submitted into the Council's formal decision making process for approval to go out for consultation in November 2014 for a two month period. It was anticipated that this would be undertaken during the whole of January and February 2015. Following the consultation, comments would be assessed and taken into consideration for possible amendments to the plan following a process. The consultation period was necessary to ensure that the document had been properly consulted upon and would have weight.

At this point, copies of an email setting out examples of cases where Enforcement Notices had been served or where prosecutions had been made was circulated to Members of the Committee, (copy attached to the minutes). Clare Lawrence commented that in average year the Council might serve around 11-12 Enforcement Notices, but to date in 2014 the Council had served 23. This was an example of the degree to which the Council was being more pro-active in enforcement. Whilst the first option was to seek to rectify a situation through negotiation, the Council was prepared to take action including prosecution when it felt it was necessary.

Clare Lawrence commented that one finding of the Silvester report had been that the Council did need to be more proactive in keeping the public up to date and informed of what the Planning Enforcement Service was doing. It was accepted that this could be improved and that the Council had not been good at this, partly because of resources issues and made worse by the complexity of the planning enforcement process. For example, if there were delays interested parties needed to be informed of the delays even if the Council was not in a position to change the situation.

Targets would be set within Enforcement Local Plan for updates to interested parties and it was to be recommended within the plan that 28 day regular updates would be provided even if there had been no change in the status of a case so as to show the case was still being considered. It was expected that new information technology provision would assist in achieving this automatically.

The Committee was informed that the Enforcement Local Plan would include reference to a process for two-way communication with Towns/Parish Councils on enforcement issues and that a briefing on planning and planning enforcement was due to be given to the Borough Parish Working Group in October 2014. This work would then feed in through the Local Enforcement Plan.

With regards to planning enforcement and major development, the Council was seeking to adopt a new approach involving the addition of conditions requiring developers to consult with local residents throughout the construction of the development so as to keep the public informed. As more enforcement complaints were received relating to construction activity than any other reason it was hoped that this proactive approach would reduce the overall number of complaints by the developer taking on more responsibility. This might be via the developer alerting residents to the need to have a delivery outside of agreed hours. The Sandford Farm development was example of this type of engagement by developers.

The next step would be the Local Enforcement Plan. This document would be the basis by which the it was felt the whole service could be moved forward.

During discussion the following points and questions were raised by Members of the Committee:

- Michael Firmager commented that as the Chairman of the Borough Parish Working Group he wished to echo the importance of engaging with Town and Parish Councils on planning enforcement issues and commented that he felt that the John Kaiser, the Executive Member for Planning and Highways was of the same opinion;
- Members asked questions in respect of the progress of a number of the individual cases set out in the email listing planning enforcement to date. Marcia Head responded to these;
- The Committee was informed that the enforcement service had secured approximately a 70% increase in funding, which was significant given the constrained financial position of the Council overall. Investigation of complaints was relatively straightforward, but ensuring compliance could become a very challenging process. Appeals against robust enforcement notices involved significant amounts of Officer hours and cost through the necessary engagement of barristers and the court process. The employment of a very experience enforcement Officer would allow for more complicated work to be retained in house;
- Planning enforcement compliance could take the form of negotiation, through litigation or direct action where the Council took the necessary actions for a development to be compliant and claimed its cost back from the developer;
- Ken Miall expressed disappointment over the length of time it had taken to develop the Local Enforcement Plan given that the Silvester Report action plan had first been presented to the Committee in April. He felt that the Committee and Councillors should be able to see the drafts of these documents. Clare Lawrence explained the nature of the Plan as an emerging and culmiative document that had to be compliant with planning practice and also the links between corporate projects such as improvements in Information Technology and other changes within the Council and the Regulatory Service;
- The process that had to be followed in terms of the adoption of the Local Enforcement Plan was not dissimilar to that required for the adoption of other local planning documents which was unfortunately quite lengthy and bespoke;



- Good progress had been made in the improving the planning enforcement service over the last six months and Clare Lawrence commented that she was confident that the improvements could continue and that the service would continue to adapt;
- Ken Miall commented that he felt that if a change was felt to be a good idea it made sense for it to be implemented immediately rather than waiting for the agreement of a plan. He also expressed disappointment that in his view, Officers did not circulate draft documents to Members on a confidential basis at an early stage. This created a situation where documents were delayed because substantial amendments were required by Members later on. Members needed to see the draft document;
- Clare Lawrence commented that a draft of the Local Enforcement Plan did exist and comments had been made on it by Officers to the John Silvester, but that further progress had unfortunately been temporary delayed. The document remained an initial draft;
- It was stressed to the Committee that as part of the consultation process there was opportunity to change the document and nothing was set in stone. There were further pieces of work needed in respect of a number of technical aspects of the document including the application of information technology;
- The Committee was informed that Clare Lawrence had spoken to John Kaiser, the Executive Member for Planning and Highways who had indicated that he was open minded about providing Members with further information, but that he did want the Corporate Services Overview and Scrutiny Committee to formally respond to the public consultation process. She commented that she would be happy to inform John Kaiser of the Committee's view that it would like to see it an earlier stage;
- The Chairman commented that he supported this as it had been a consistent request of the Committee over a six month period. Whilst it was accepted that the Committee could not demand the release of a draft document he asked that the Committee be informed of how it could input in a timely fashion;
- Chris Bowring asked to what extent the Planning Enforcement Service was publicising its message in the media, given that greater awareness of its work might discourage planning infringements and unauthorised developments. The Committee was informed that every effort was made to be proactive and the service did work closely with the Council's central communications team in explaining successful activity and keeping Towns/Parishes up to date. Details of cases were making the newspapers;
- In response to a question, Clare Lawrence advised that she was not aware of any of the recommendations of the Silvester report that had not been taken on board, but that she would inform the Committee if there were any. The Council was intending to do as much as possible with the resources available. It was highlighted that the Silvester Report set out best practice and no one Council would be applying that best practice in the same way;
- It was confirmed that any new information technology would act as a facilitator, but that a way would be found to act to undertake tasks it could not do. However, there was coordination between the development of the planning enforcement plan and the rollout of information of information technology across the Council's regulatory services. Clare Lawrence was the lead on both pieces of work;
- It was suggested that the press might be contacted to see if they would be prepared to run a more detailed piece on the Planning Enforcement Service, perhaps a 'Day in the life of' type piece which would help spread the message of what planning enforcement involved;

Members of the Committee then considered the Action Plan attached as Appendix A to the report in more detail. The Chairman commented that it would be particularly helpful to confirm whether a particular action was complete or ongoing.

<b>Action Summary</b>	<b>Update</b>
Review of staffing structure and recruitment	staff had been recruited, but this was an ongoing action
Legal Officer – dedicated legal officer for the planning enforcement	Complete
Staff Training and Development/performance management	<p>Commenced and ongoing – reflecting the Council’s corporate approach, but also opportunities of short term placement Officers in different role to give a broad range of experience.</p> <p>All planning officers had undertaking training on planning enforcement with a focus on compliance.</p>
Review IT systems	Update provided in the course of the main Committee discussion.
Development of Local Enforcement Plan	Update provided in the course of the main Committee discussion.
Prepare an Enforcement Charter	<p>An easy to use Enforcement Charter to be produced as a sub-document of Local Enforcement Plan once it was approved. It was anticipated this would be in a leaflet style with simple bullet points of what could be expected.</p> <p>It was expected that this would be produced in Spring 2015.</p>
Review and Prepare Health and Safety document and procedure	Document is being revised.
Standards Conditions to be revised and updated	This task was now complete to reflect the most up to date case law and policy.
Monitor and Review of targets and necessary actions/changes	<p>Currently, a report was presented to the Planning Committee on approximately a quarterly base which set out monitoring information.</p> <p>Further discussion on which Committee would be most appropriate to receive monitoring information needed to take place with the Executive Member. The Committee wished to review the issue of the reporting of monitoring information at a later date.</p>

<b>Action Summary</b>	<b>Update</b>
Regular case review meetings (Officer)	<p>Regular review meetings were undertaken with a legal Officer present and often the Executive Member for Planning and Highways also attended.</p> <p>Monitoring of targets would in future form part of these case review meetings. However, this could not be fully finalised until the Local Enforcement Plan was in place.</p>
Ward Member and Town/Parish Focus (Various)	<p>A standalone annual enforcement forum had not been established as corporately there had been progress in the principle of using the Borough Parish Working Group as the most appropriate mechanism for this type of engagement. The suggested item for discussion with Town/Parish Councils would be the level of involvement they wished to have in enforcement, for example would their Councils be happy for the Borough Council to do all of the monitoring and compliance activity or might that Town/Parish wish to take on responsibility for some of those functions in partnership with the Borough Council.</p> <p>Visits had been undertaken to 16 out of 17 Town/Parish Councils to talk them about planning and planning enforcement. It had not yet been possible to make contact with the parish which remained to be visited. Of those visited, positive feedback had been received around improved communications.</p> <p>The introduction of the 48 hour consultation notice period for the closure of cases was felt to have improved communication with Wokingham Borough Ward Members.</p> <p>Engagement and discussion with Members would also take place as part of the process of adopting the Local Enforcement Plan.</p>
Customer focus/communications (various)	<p>Update provided in the course of the Committee's main discussion. The review of standard letters and correspondence was ongoing.</p>

The Chairman summarised the action points arising out of the discussion:

- To explore the opportunities for involvement by the Committee in the development of the Local Enforcement Plan with the Executive Member for Planning and Highways as quickly as possible given that it was due to be considered by the Council's Executive in November 2014 and if necessary an extraordinary meeting be arranged;
- To explore which Council Committee would in future consider monitoring reports in respect of planning enforcement;
- That there would be a session on planning enforcement at the next Borough Parish Working Group.

**RESOLVED:**

- 1) That the report be noted;
- 2) The Chairman of the Committee explore the opportunities for involvement by the Committee in the development of the Local Enforcement Plan with the Executive Member for Planning and Highways before the consideration of the Plan by the Executive in November 2014;
- 3) That the Head of Development Management and Regulatory Services explore which Council Committee would in future consider monitoring reports in respect of planning enforcement and report back to the Committee.

**14. BURIALS PROVISION UPDATE**

The Committee received a report, as set out on Agenda pages 16 to 19, which updated Members on action taken in relation to the recommendations of the Burials Task and Finish Group, submitted to the Executive in 2007 and the subsequent progress reports to the Scrutiny Committee.

Neil Carr, the former Head of Neighbourhoods presented the report to the Committee. The Committee was referred to the report which set out progress taken in the last year against the recommendations of the Burials Task and Finish Group.

The Committee was reminded that the Council operated two cemeteries in Shinfield and Wokingham Without. Other providers included Earley Town Council and burial provision within church graveyards. The number of spare burial plots within the Borough was gradually decreasing and this reflected the national situation.

It was highlighted that the Council was seeking to increase space within Council run cemeteries by bringing areas not currently used for burials into use, i.e. areas that had been set aside for soil storage and paths. Space that could be created in this way would help delay the need to find new sites. Such work at St Sebastian's cemetery where a path had been removed recently had created an additional 30 spaces.

Alongside the work to utilise existing space more efficiently, the Council was seeking to identify additional burial space. Further details of this were set out within a Part 2 additional background report which was exempt for publication on the grounds of commercial sensitivity.

Other issues within the report highlighted to Members included the development of natural burial sites, a review of the introduction of columbarium walls and gardens of remembrance and provision with the Managing Development Delivery Plan Document, (MDD DPD).

The following issues and questions were raised during the Committee's discussion of the item:

- Concern was expressed that the removal of footpaths within the Council's cemeteries to increase capacity might create access problems. It was confirmed that the path in the example given within the report was not used regularly and consultation had been and would be undertaken with the appropriate groups;
- Feedback that Members had received from residents seemed to indicate that there was not adequate provision for Muslim and non-traditional burials, contrary to the update in the report and that residents interested in these types of burials were having to arrange burials outside the Borough at an increased price because they were not happy with the service being provided. Some of these residents were minded to buy land to make their own provision, but needed advice; Neil Carr responded that the report set out the position regarding the space provision for Muslim and non-traditional burials, not the quality of provision. However, he would take this concern back to the relevant team to examine whether any changes could be made, potentially with any Members who wished to be involved. This could also cover what steps needed to be followed by those wishing to establish their own burials provision;
- The Chairman commented that the issues within the report highlighted that demand for burial plots within the Council's cemeteries was not particularly high and this raised the policy issue of whether the direct provision of cemeteries was a business activity that the Council wished to pursue long term given that it was not a statutory service and resources used to fund it could potentially be used elsewhere;
- The Committee was informed that as potential alternative burial provision was used up, demand for plots within the Council's cemeteries would decline and that when church graveyards became full, responsibility for their upkeep would pass to the Borough with residual cost involved regardless of whether the Borough provided spaces itself;
- Members queried what the next step would be in order to provide columbarium walls. They were informed that this would be considered as part of considering the overall number of plots available. At present it was felt preferable to explore opportunities to create additional plots through improved use of existing areas rather than columbarium walls, but as this option was exhausted the option of columbarium walls would need to be re-examined;
- The Committee was informed that in planning terms a national formula was used to determine the expected number of new residents that would be generated from an expected number of dwellings. In terms of a financial contribution for burials arising from development this had been calculated at £41;
- Members queried the level of provision for children and whether burial plots for children were of the same dimensions. It was confirmed that a different charging ratio was in place for children and adults and that different space requirements were taken into account in calculating the number of plots required;
- Separate areas were not currently set aside for children within the Borough's cemeteries;
- It had been forecast that by 2029, additional capacity equating to 1.9 hectares was required. It was agreed that an explanation of the formula used in calculating the number of burial plots required from a certain number of dwellings could be circulated to the Committee;

The Committee then considered the three recommendations set out on Agenda page 16. It was felt that the issue of quality of service provision for Muslim and non-traditional burials and the potential for the provision of areas within cemeteries dedicated to children should be explored further. It was felt that a report in 2015/2016 would be useful.

**RESOLVED:** That:

- 1) the progress against each of the recommendations from the Burials Task and Finish Group and the Executive, as set out in the report, be noted;
- 2) Officers be asked to consider the points made by the Committee, specifically in respect of the comments made relating to Muslim burials and the dedication of space within the Council's cemeteries for children;
- 3) a further progress report be submitted to the Scrutiny Committee during the 2015/16 municipal year.

#### **15. WORK PROGRAMME**

The Committee received its work programme for the remainder of the 2014/15 municipal year, as set out on Agenda pages 20 to 23.

It was felt that there might be a need to have a separate meeting to consider

It was felt that the report on progress towards the meeting the Decent Homes Standard should be moved to the January 2015 Committee.

**RESOLVED:** That the Committee's work programme, for the remainder of the 2014/15 municipal year, be noted subject to the report on the progress towards meeting the Decent Homes Standard being moved from March 2015 to January 2015.

#### **16. EXCLUSION OF THE PUBLIC**

**RESOLVED:** That under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 Part 1 of Schedule 12A of the Act (as amended) as appropriate.

### **PART II**

#### **17. BURIAL REVIEW UPDATE**

The Corporate Services Overview and Scrutiny Committee considered a report providing an update on the Burials review.

**RESOLVED:** That the Corporate Services Overview and Scrutiny Committee notes the information contained in the report.

*These are the Minutes of a meeting of the Corporate Services Overview and Scrutiny Committee.*

*If you need help in understanding this document or if you would like a copy of it in large print please contact one of our Administrators.*

### **Enforcement achievements this year**

23 Notices served so far this year at:

4 Sidmouth Grange Close – unauthorised car port in front garden  
Old Post office Charvil – unauthorised outbuilding in garden  
43 Byron Road – failure to provide parking spaces  
Pinecopse – mobile homes (withdrawn and about to be reserved)  
Tintagel – unauthorised residential uses in countryside  
Silverstock – unauthorised 2m high red brick wall  
19 Hatch Ride – unauthorised brick wall  
6 Birchside – unauthorised separate residential use of garage  
Primrose scaffolding – unauthorised scaffolding use and very high scaffolding storage structure in Green belt  
Little orchard – unauthorised storage of cars in Green belt  
Sibley Hall – TSN – residential development of 90 dwellings without compliance with conditions  
Honeysuckle Lodge - unauthorised mobile homes in countryside  
Fishponds Road – unauthorised 2m high steel fencing  
Bellway Bridge – failure to construct bridge as required by condition  
35 Selsdon Avenue – unauthorised dormers  
Per Capita plant Hire – failure to comply with conditions  
Fox and Hounds Cottage – unauthorised erection of a house  
67 Beech Lane – unauthorised extensions  
Woodlands – unauthorised commercial uses in countryside  
Little Covert – unauthorised building in countryside  
23A Nine Mile Ride – unauthorised building  
340 Nine Mile Ride – unauthorised extension  
16 Blackberry gardens – unauthorised change of use of amenity land to garden

7 current enforcement appeals:

Woodlands

Fox and Hounds Cottage

Silverstock

19 Hatch Ride

Tintagel

Little orchard

Fairlands

4 successful prosecutions:

#### WBC v Stanley (23A Nine Mile Ride Finchampstead)

Breach of planning control: Non compliance with breach of condition notice relating to number of caravans on site.

Breach reported April 2011. Notice served April 2012. Compliance required May 2013.

Final court date 30 June 2014, pleaded guilty fined £400. Ordered to pay victim surcharge and Council costs (total £3495).

WBC v Defazio (Cigala/The Ford Arborfield)

Breach of planning control: non compliance with enforcement notice requiring demolition of garage.

Certificate of lawfulness refused 2009. Notice served 2011. Appeal against notice dismissed. Compliance required by February 2013.

Final court date 30 June, pleaded guilty fined £1000. Ordered to pay victim surcharge and Council costs (total £2410).

WBC v Qayyam (47 Eastcourt Avenue Earley)

Breach of planning control: non compliance with enforcement notice relating to use of dwelling as HMP and use of outbuilding as self contained dwelling.

Breach reported Jan 2012. Notice served Oct 2012. Compliance required by July 2013.

Final court date 6 August 2014, pleaded guilty fined £5000. Ordered to pay victim surcharge and Council costs (total £8255).

WBC v Tansie (5 Toseland, Lower Earley)

Breach of planning control: non compliance with breach of condition notice relating to use of residential extension as a self contained dwelling.

Breach reported 2010. Notice served August 2012. Compliance required by October 2012.

Final court date 12 August 2014, pleaded guilty fined £750. Ordered to pay victim surcharge and Council costs (total £6041).

Prosecutions pending at:

The Parade, Brecon Road  
50 Nine Mile Ride  
Warren farm  
5 Strand Way  
62 Adwell Close  
9 Erleigh Court Gardens

2 Injunction hearings pending:

The Ford, Arborfield  
1 Mole Road

Committal application for non compliance with an injunction at The Copse, earlier this year.



## Corporate Services Overview and Scrutiny Committee 8 September 2014

Written answers provided to supplementary public questions asked by Mr Meadowcroft:

### Question

The Issues Paper also states that “*a more proactive and zero tolerance approach has been taken.*” But read this carefully, Chairman and Members. The Director of Environment does not know the meaning of “zero tolerance” because it is only being applied, apparently, to those unauthorised developments which have “*significant impacts in terms of safety and amenity*”. That, Chairman and Members, is not the application of “zero tolerance” which by definition must apply to all cases of unauthorised development – so is it solely because staff and resource is so limited that the Director of Environment has decided only to conduct selective enforcement?

### Answer

The planning harm associated with any unauthorised development is a primary factor in determining the expediency of undertaking formal enforcement action and the level of harm is also a determining factor in the timescale associated with this action. Where possible, the council will seek to reach a negotiated solution to resolve all planning breaches but when the level of harm is significant and having a serious impact on the environment (that cannot be mitigated other than by immediate cessation or compliance which is not forthcoming through negotiation), or when the development is seriously impacting on the quality of life of the Borough’s residents, the council will take a zero tolerance approach and undertake swift formal enforcement action. Zero tolerance therefore only relates to the most harmful cases and the appropriate level of enforcement is determined on a case by case basis having regard to material planning considerations, and the likelihood of gaining compliance through negotiation and timely compliance.

### Question

The report says that ‘*a draft local enforcement plan*’ and “*a charter to reflect standards of service has been produced.*” But where are documents? Chairman, and Members, you discussed at the last meeting on 2 July the requirement for this Committee to have an input prior to consultation – not to be mere bystanders and reviewers after the event. No purpose is served by the committee in overseeing and scrutinising done deals. The Director of Environment needs to be pressed by you, Chairman, to produce these extant documents to this Committee. But again, question. Is non delivery of these documents due to staffing and resource issues?

### Answer

No, the preparation of the Local Enforcement Plan is a detailed process and this needs to be undertaken in accordance with council procedure for adoption of these types of documents. The plan is due to go to the Council’s Executive in November and will be available in accordance with the access to information regulations before this time. The OSC will have the opportunity to comment on this as part of the formal consultation process. Unfortunately, the preparation of this document has been slightly delayed due to John Silvester’s availability as he is helping the council with its preparation.

### Question

An Action Plan was submitted at the January meeting of this Committee. It was replaced by an Action Plan at the April meeting. It drew strong criticism from Members for failing to

provide clear and definite time lines. At the last meeting of this Committee in April, Councillor Bray said and I quote, *'this Committee needed to contribute to an Action Plan rather than merely receive it'* and the Chairman requested that Clare Lawrence provide greater clarification of the time lines to this September meeting with regard to the consultation and presentation to the Executive of this Local Enforcement Plan which we have not seen. The Chairman's request to Clare Lawrence has neither been acknowledged nor heeded in the latest Action Plan in the Agenda this evening. This third attempt is barely different from the second attempt seen in April and we are now 12 months on from the publication of the unfit for purpose report by Silvester. It does not indicate that the crisis in the department is being tackled head on and that a crucial request from this Committee's Chairman has been ignored. So is this situation precipitated by staffing and resource issues?

**Answer**

The action plan relates to a wide range of issues and some of these are incremental in their nature and cannot happen overnight. Some are also dependant on wider corporate programmes that by their nature are longer term. Despite this, considerable progress has been made to implement many of the actions set out the action plan. The next step is the preparation, consultation and adoption of the Local Enforcement plan that will set out the council's approach to planning enforcement and its procedures. This will need to go through the council's formal process for adoption and this takes time as set out in