

Draft Minutes

Liaison Meeting with Community Councillors

Date: 20 October 2022

Time: 6:00pm

Venue: Microsoft Teams Meeting

Present: Gareth Price (Head of Law and Standards (Chair), Pamela Tasker (Governance Support Officer), Taylor Strange (Governance Support Officer) Leanne Rowlands (Democratic and Electoral Services Manager), Chris Roberts (Marshfield), Julie Foster (Wentlooge), Patricia Appleton (Graig), Cath Davies (Marshfield), Nathan Tarr (Graig), Mandy George (Llanwern), Councillor Yvonne Forsey (Rogerstone West) Neil Gunther (Senior Planning Enforcement Officer)

Apologies

John Davies Bishton community council

Nigel Hallet Langstone community council

Brian Miles Wentlooge Community Council

Minutes from the previous meeting

The minutes of the last meeting were agreed as a true record.

Matters arising

There were no matters arising.

Planning enforcement

Presented by Neil Gunther (Senior Planning enforcement officer)

Main points

An informal meeting with Marshfield had taken place prior to this presentation.

It was highlighted that the purpose of this presentation was to give a broad Newport wide view of planning enforcement rather than just focused on one area.

The Senior Planning Enforcement Officer listed the various types of actions that require planning enforcement which are as commented.

- Unauthorised building or engineering work, material change or use of land or buildings, non-compliance with planning conditions, unsightly land or buildings, unauthorised advertisements, unauthorised works to a listed building and unauthorised works on protected trees

The Senior Planning Enforcement Officer confirmed on the next slide that the enforcement team is based in the civic centre as well as displaying their email address and office number.

The Officer briefly covered key legislation such as the “Town & Country Planning Act 1990” and how they relate to planning enforcement.

Unauthorised planning isn’t strictly illegal but rather the resulting action from the notices served that could cause an offence to be committed.

Briefly covered key legislation such as “Town & Country Planning Act 1990” as well as the “Anti-Social Behaviour, Crime and Policing Act 2014” however it does not strictly only apply to planning.

Unauthorised planning isn’t strictly illegal but allows for notice to be given.

“Planning Policy Wales 11th Edition 24 February 2021” is the overarching document for policy within Wales.

The Senior Planning Enforcement Officer gave a quotation from the “Development Management Manual (revision 2 May 2017) section 14.2.3 in which its highlighted that the focus should be on remedying the situation and not punishing the person.

The action steps were described as followed.

- First a site visit to see if there is a breach
- Following the visit, a letter is sent that covers a period of 28 days and explains how to remedy the situation
- If deemed prudent and in the public interest a further site visit will occur
- Followed by a 14-day letter
- And then finally a further site visit

It is to be noted that at any point in the process a case could be deemed as not expedient or in the public interests and then no further action would be taken. Also, in regard to “notices” the process is slightly different however the Officer clarified that this is the process for most cases.

Most notices can be appealed, with the appeal being dealt with by PEDW.

“enforcement notices S.172 details that harm to the public along with a breach are the key criteria for the notice to be given.

- Non-compliance is a criminal offense with the fine amount being up to £20000 in the magistrates or unlimited in the crown court
- Direct action may also be taken
- Certain breaches that can incur notices have time limits on them before immunity is given for the infraction

Questions

Councillor Forsey asked what “direct action” meant?

The Senior Planning Enforcement Officer noted that direct action was the minimum action required to remedy the situation, with an example given whereby the council removed a “hard standing yard”.

the cost burden of direct action is initially taken on by the council but then is passed on to the owner or through sale of the land.

Councillor Forsey gave an example of this action within Rogerstone.

Main points continued

Stop Notices S.183

- Requires development to stop
- Rarely used

Breach of Condition Notice S.187A

- Requires a planning permission to be complied with
- No right of appeal
- Fine is 1000 at the magistrate's court
- Redrow Homes given as an example

Unightly Land Notice S.215

- Requires waste or unsightly issues on a property to be cleared up
- A fine of £1000 by the magistrates, £100 per day following first prosecution
- Notice ceases once complied with

Listed Buildings S.38 Planning (Listed Buildings & Conservation Areas) Act 1990

- Carrying unauthorised work on a listed building
- Up to £20000 and or up to 2 years in prison
- Noted that most offenses occur out of naivety rather than intention to breach the law
- TJ's in Clarence place was given as an example

Unauthorised Advertisements S.224

- Advertisements in places not authorised
- Fine £2500 per advert, £250 per day following first prosecution

Protected Trees S.211

- Criminal offense to damage trees in any way that are either protected themselves or in a protected area

In conclusion the enforcement team consult with others in order to gain a better understanding of the situations causing harm as well how to reduce the harm. It was reiterated that it's about resolving harm not punishing.

The Senior Planning Enforcement Officer felt the court weren't imposing penalties that well, but the view has since changed.

Questions

The Marshfield Representative wanted to thank the planning enforcement officer for the presentation and noted after communication with NRW that they felt that fly tipping fines were rather small considering the cost of clearing the waste up.

The Senior Planning Enforcement Officer did highlight that fines were sometimes low as the courts did not understand the nature of offences.

The Marshfield representative asked whether a presentation could be made to the courts outside of the court proceedings, to explain how serious the offences were.

The Senior Planning enforcement officer stated he wouldn't be averse to this.

The Chair highlighted that there is a limit to what officers can do, but that courts have sentencing guidelines to deal with issues such as fly tipping.

The Marshfield Representative felt that there needs to be stronger penalties as the current ones are not deterring enough people from fly tipping.

The Senior Planning Enforcement Officer noted that sometimes guidance for courts can be hard to track down, however caution needed to be given when influencing the courts. The officer felt that victims were key in showing that prosecution is worthwhile.

Councillor Forsey thanked the officer for the presentation and noted that they would be sending a case to the enforcement team in the near future.

Councillor Forsey queried the results of a case previously mentioned by the Enforcement Officer?

The Senior Planning Enforcement Officer stated he felt the case may end up as a prosecution as the party has not tried to cooperate to date, however it was noted that this could change.

The Wentlooge Representative asked why stop notices were rarely used.

The Senior Planning Enforcement Officer referred to the fact harm is the key focus and that stop notices are exceptional due to their nature and the fact that, if they are appealed in court, damages can be awarded.

The Wentlooge Representative felt that the notices were very effective.

The Chair reiterated the officer's point that stop notice could be liable to significant compensation if they are found as wrong. The Chair further pointed out that injunctions can have a high cost with the courts having a discretion as to whether to grant an injunction.

The Wentlooge Representative questioned why cases that may have incurred multiple breaches aren't then put forward for stop notices?

The Chair stated litigation is inherently risky and that the council must weigh up the cost against the harm that has been caused, with the courts being the last resort not the first.

The Graig representative pointed to it being risk vs reward.

The Senior Planning Enforcement Officer suggested that due to injunctions having a penalty of imprisonment they can be hard to gain success when brought to the courts.

The Chair furthered the officer's point by stating that the injunction doesn't always get the desired result as well.

The Wentlooge representative raised the issue of the rules and regulations applying across the board, as they felt that some cases had actions taken on them whereas others did not. The Representative further noted issues with abandoned cars on the commons.

The Senior Planning Enforcement Officer did not feel like there were discrepancies, noting a variety of prosecutions that have occurred, however highlighting that the outcome isn't always the best one. In regard to the issues with derelict cars on the commons the Officer did note that it could potentially be a section 215.

The Wentlooge Representative asked why publicity isn't given to cases that have been prosecuted?

The Planning Enforcement Officer pointed out that the authority isn't always the best at publicising but did confirm that they do inform the community councils.

The Wentlooge Representative felt that press doesn't always publicize all manner of cases, highlighting a case involving waste.

The Senior Planning Enforcement Officer stated that due to the case referred to being ongoing, that it was best not to talk about it further.

The Marshfield Representative what policy or protocol change would help making the planning enforcement teams lives easier?

The Senior Planning Enforcement Officer felt that if there was a consolidated legislation that covers all appropriate legislation it would be very useful as sometimes the team finds it difficult to find certain legislation. The Officer also felt they should be accountable to the Planning Inspectorate.

The Marshfield Representative queried whether the Officer feels the consolidation by the Welsh Government will happen?

The Senior Planning Enforcement Officer felt the change was starting to be reflected in Wales but not England and Wales.

The Marshfield Representative wanted to thank the Officer for the presentation and asked if the slides could be circulated.

The Graig Representative asked if they worked with neighbouring councils on issues that were on the border of both? The Representative also asked if they work with other councils on issues that could one day impact Newport?

The Senior Planning Enforcement Officer stated that if the case straddles both boundaries then both councils will deal with it, if it's clearly one county then that council will deal with it. They may however work with the other county if they feel like the issue could impact them in the future. The Officer also stated that there is an informal group for South East Wales, as well as the Newport team being a part of the National Planning Enforcement that circulates case law and other relevant documents to them.

The Senior Planning Enforcement Officer stated that forums such as the current meeting have helped.

The Wentlooge Representative questioned whether more staff would also help?

The Senior Planning Enforcement Officer stated that it was above his pay grade to answer that question but did note that they have had 2 new members of staff that have started recently.

The Wentlooge Representative wanted to thank the Officer for the job he does and mentioned that they will support him as much as they can.

Any other business

The Marshfield Representative queried that they started a bus campaign to get a permanent route in their town but that nothing has moved forward. The Representative asked if they could speak to someone from transport?

The Chair explained that the bus company deals with the routes and that there is no committee in the council that deals with it.

The Marshfield Representative would like to know who the ultimate decision maker is so they can negotiate with them?

The Chair detailed that the council only deals with subsidised routes and that bus companies decide on the routes. The Head stated that Richard Cope would be the only one to clarify who has the final decision. The email address was given out verbally.

The Chair informed the representative that he will chase up with his office so that a response is given.

Councillor Forsey asked what items would be on the next agenda?

The Chair informed the committee that the next meeting would be in January.

The Governance Support Officer also informed the committee that a new member of the team would be taking over the next meeting, so any queries should be sent to them

The Wentlooge Representative asked about the code of conduct training

The Chair noted if they would like more training that it can be arranged. He also informed the committee that he would be retiring in December and wanted to thank the committee for all the work they have done.

The Graig Representative asked if the members were happy to have hybrid meetings moving on.

The Members showed support for this.

The Chair is unsure who will replace him in the next meeting but informed the committee that if there is no new head then it would be Elizabeth Bryant or Leanne Rowlands.

The Graig Representative thanked Gareth for all the work he has done.

This sentiment was also expressed by other members of the committee.

Date of next meeting

19th January 6pm 2023