

Maidstone Borough Council

**Regeneration and Sustainable Communities Overview and Scrutiny
Committee**

**Enforcement of Planning Conditions and Compliance with Section 106
Agreements Workshop with Parish Councils**

Draft Notes

Tuesday 11 November 2008

PRESENT:

Ward Councillors: Sherreard (Chairman), Batt, Butler, FitzGerald, English, Nelson-Gracie, Paine and Ross.

Visiting Councillors: Greer and J A Wilson

Parish Councillors: Andrew Barr, Geraldine Brown, David Burton, R Coulling, F Divall, Warick Eden, Ian Ellis, B Franks, R Galton, Paul Mace, John Hughes, G McLaggan, Chris Morgan-Jones, R Morley, A Rollinson, Allan Springate, Frank Stephenson, Eddy Vinnicombe and Keith Woollven.

Workshop

Members of the Committee split into three groups and discussed Parish Councillor's experiences of the enforcement of planning conditions and compliance with Section 106 Agreements. The first part of the workshop allowed participants to discuss problems. Potential solutions to the problems and ways forward to improve the Service were discussed in the second part of the workshop.

Problems

The following problems with the enforcement of planning conditions and compliance with Section 106s were identified and reported back to the workshop by the groups:

- The delay in investigating complaints;
- An inconsistent approach to the enforcement of conditions (- comments included that there was a 'lack of enforcement of conditions', 'lack of action' and 'if it goes against planning conditions, its irrelevant if it officers think its looks better the new way');
- Inconsistent monitoring of conditions and S106s - need to show that they are monitoring, parish councils can help with this;
- Unenforceable conditions/Inappropriate conditions - 'what's the point in placing a condition if you do not enforce it?!';
- Developers carry on regardless of enforcement action - need to show that they aren't a soft touch - need to be more tenacious;
- Expecting developers to pay for conditions to be discharged - 'surely we should charge initially and then give the money back when met the conditions to encourage them to comply';

- Lack of communication with Parish Councils with new enforcement cases and feedback of existing enforcement cases – some noting that they could help if they knew what was happening in their Parish;
- Uncertainty regarding the information that can be passed on to Parish Councils as a result of data protection. Some felt that this was used as an excuse for not providing information and added to their frustrations – However, it was noted that officers were working on this and that an enforcement information package was being put together in addition to investigations on ways to share relevant confidential information;
- The lower level enforcement issues need to be remembered too;
- It was understood that the S106 Officer had difficulty obtaining information from Kent County Council;
- Perceived lack of resources (- staff);
- Officers not taking responsibility and hiding behind others – e.g. highways agency;
- Some Ward Members were not receiving S106 updates for their ward – they were advised to let the Cabinet Member for Regeneration know if they are not;
- Enforcement of activities that do not have planning permission;
- Some conditions included at the request of the Parish Council have been removed without consultation; and
- Parish Councils are excluded from discussions when deciding on S106s and it was felt that S106s were therefore not as effective as could have been – Parish Councils are better placed to give local area information.

Solutions

The following potential solutions to the problems and ways forward to improve the Service were identified and reported back to the workshop by the groups:

- Increase Enforcement Staffing;
- The introduction of Case officers who take the responsibility for planning cases from 'cradle to grave', including lower priority enforcement cases – if not this, then the planning officer who approved the application be more involved with enforcement action;
- A dedicated liaison officer between Councillors (Parish and Borough) and enforcement;
- Improve relations between Borough and Parish Councillors;
- The re-ordering of enforcement priorities – include Parish Council consultation in determining these, often their priorities may be different to the Councils, e.g. landscaping;
- Define/Clarify how enforcement cases are prioritised and describe what would constitute a high priority case– including clarification of 'degree of harm';
- Use an appropriate tracking system to monitor conditions and S106s to ensure they are complied with – Parish Councils would like to see the progress monitored – it was also suggested that the length of time until the conditions expires should be considered when prioritising what is monitored, to ensure that the window to take action isn't lost;

- The ultimate aim is to get to the point where no enforcement is needed as conditions are complied with e.g. through enabling Committees and ensuring developers do not see the Council as a soft touch;
- Notify Parish Councils when conditions are changed;
- Consult Parish Councils when considering to remove conditions that had been initially requested by the Parish Council;
- Parish Councils welcome any information on the action and inaction taking place;
- Parish Councils be invited to take part in discussions regarding S106s to provide local area information;
- Separate enforcement officers for urban and rural areas;
- Ward and Parish Councillors be consulted on the suggested content of the draft Enforcement Information Pack for Parish Councils being compiled by Officers e.g. the need for information on pre-application discussions;
- That there concerns be taken seriously by Enforcement Officers;
- Regular updates on live and new cases – ensure that feedback is given and that they updated;
- The Committee lobby KCC highways with regard to poor information on applications (n.b. the recommendation made in the Highways Report);
- Ensure that all planning application 'green sheets' are received by Parish Councils to ensure they are fully informed – Hollingbourne PC had had some missing and Coxheath PC had 4 missing that they knew of;
- Publicise the successful enforcement cases – possibly use Borough Update;
- Weekend breaches – provide an emergency contact, e.g. Parish Councillor contact a Borough Councillor to highlight urgent issues at weekends;
- Improve technology – use website to list outstanding issues and ensure each Parish is able to receive electronic communication;
- Pay attention to Local Character Assessments and Conservation Areas and Listed Buildings;
- Consider the outcomes when making decisions on introducing planning conditions;
- Don't ignore the small enforcement issues – they add up;
- The suggested idea of confidential information being given to Parish Councils in a private meeting – Parish Councils can act as the eyes and ears;
- Listing Enforcement Action in Planning Papers of Planning Committee;
- Distribute quarterly updates from the Section 106 database; and
- Encourage Pre-application discussions and include Parish Council's in Pre-Application Discussions.