



HILLINGDON  
LONDON



# Residents' and Environmental Services Policy Overview Committee

## Councillors on the Committee

Michael Markham (Chairman)  
Kay Willmott-Denbeigh (Vice-Chairman)  
Lynne Allen  
Paul Buttivant  
Janet Duncan  
Judy Kelly

**Date:** TUESDAY, 15 DECEMBER  
2009

**Time:** 6.00 P.M.

**Venue:** COMMITTEE ROOM 4  
CIVIC CENTRE,  
HIGH STREET,  
UXBRIDGE  
UB8 1UW

**Meeting  
Details:** Members of the Public and  
Press are welcome to attend  
this meeting

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information.**

**Published:** Monday, 7 December 2009

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## **Residents' & Environmental Services Policy Overview Committee**

### **Terms of Reference**

To perform the policy overview role outlined below:

1. conduct reviews of policy, services or aspects of service which have either been referred by Cabinet, relate to the Cabinet Forward Plan, or have been chosen by the Committee according to the agreed criteria for selecting such reviews;
2. monitor the performance of the Council services within their remit (including the management of finances and risk);
3. comment on the proposed annual service and budget plans for the Council services within their remit before final approval by Cabinet and Council;
4. consider the Forward Plan and comment as appropriate to the decision-maker on Key Decisions which relate to services within their remit (before they are taken by the Cabinet);

In relation to the following services:

1. culture, arts and sport including the provision and/or management of museums, art galleries, theatres, archives and local history activities, libraries, leisure centres, swimming pools and other like facilities;
2. lifelong learning;
3. community safety;
4. the provision, planning and management of parks and open spaces, allotments, cemeteries, pitches and other like facilities;
5. transport, highways and parking;
6. waste management and recycling;
7. conservation and biodiversity;
8. safety education;
9. licensing and registration;
10. trading standards;
11. consumer protection;
12. environmental health functions
13. planning and building control
14. the Council's planning policies (including the Unitary Development Plan and other plans for the use and development of land), Local Agenda 21 Strategy and Local Transport (Implementation Plan).

Policy Overview Committees will not investigate individual complaints.

# Agenda

- 1 Apologies for Absence
- 2 Declarations of Interest in matters coming before this meeting.
- 3 To agree the Minutes of the meeting held on 18 November 2009 1 - 6
- 4 To confirm that all items marked Part 1 will be considered in Public and that any items marked Part 2 will be considered in Private
- 5 Forward Plan - December 2009 - March 2010 7 - 22
- 6 Work Programme 2009/2010 23 - 24
- 7 Witness Session - Planning Enforcement - Construction and Use of Detached Out Buildings (Homes in Back Gardens) - Report to Follow

## Minutes

### RESIDENTS' AND ENVIRONMENTAL SERVICES POLICY OVERVIEW COMMITTEE

Meeting held in Committee Room 4 at the Civic  
Centre, High Street, Uxbridge

Wednesday 18<sup>th</sup> November 2009



HILLINGDON  
LONDON

	<p><b>Members Present:</b></p> <p>Michael Markham (Chairman) Kay Willmott-Denbeigh (Vice-Chairman) Lynne Allen Paul Buttivant Janet Duncan Peter Kemp</p>
1.	<p><b>Apologies:</b></p> <p>Apologies had been received from Councillor Judy Kelly with Councillor Peter Kemp substituting.</p>
2.	<p><b>Declarations of Interest</b></p> <p>Councillor Lynne Allen declared a personal interest on Item 6 – Gambling Act 2005 – Statement of Licensing Policy Review, as a Member of the Licensing Committee and remained in the meeting whilst the item was discussed.</p>
3.	<p><b>Minutes of the meeting held on 8 October 2009</b></p> <p>The Minutes of the meeting held on 8<sup>th</sup> October 2009 were agreed and signed by the Chairman as a correct record after being amended to add the following declaration of interest:-</p> <p>‘Councillor Lynne Allen declared a personal interest on Item 6 – Safety at Sports Grounds – Update, as a Member of the Licensing Committee and remained in the meeting whilst the item was discussed.’</p>
4.	<p><b>To confirm that all items marked Part 1 will be considered in Public and that any items marked Part 2 will be considered in Private</b></p> <p>It was confirmed that all items of business would be considered in public.</p>
	<p><b>Consideration of Reports:</b></p> <p>Reports were considered as set out below:</p>

<p>5.</p>	<p><b>Street Lighting Review - Final Report</b></p> <p>The Committee received the final report on the Street Lighting Review. Members asked for a further recommendation to be added into the report to asked officers to consider working closely with Housing Associations in relation to Street Lighting.</p> <p><b>Resolved</b></p> <ol style="list-style-type: none"> <li>1. <b>That an additional recommendation be added to the final report to ensure officers work closely with Housing Associations on Street Lighting</b></li> <li>2. <b>That the Committee endorse the final report of the review and delegate authority to the Chairman of the Committee, in consultation with officers, to update the review based on any changes , which may be required, before its submission to Cabinet.</b></li> </ol>	<p><b>Action By:</b></p> <p><b>Tim Edwards</b>  <b>Jonathan Westell</b>  <b>Nadia Williams</b></p>
<p>6.</p>	<p><b>GAMBLING ACT 2005 – Statement of Licensing Policy Review</b></p> <p>Officers gave a brief introduction to the report and in response to an issue raised Members were advised that there had been no reviews of licences within Hillingdon.</p> <p>The Chairman asked whether there needed to be better relationship between licensing and planning. Members were advised that if there was no planning permission for a change of use, a gambling licence could still be granted.</p> <p>It was suggested that the licensing section be added to the distribution list of weekly planning applications received.</p> <p><b>Resolved –</b></p> <ol style="list-style-type: none"> <li>1. <b>That the report be noted.</b></li> <li>2. <b>That Planning and Community Services be asked to add the Licensing Team to the distribution list to receive the weekly list of planning applications.</b></li> </ol>	<p><b>Action By:</b></p> <p><b>Stephanie Waterford</b></p>

<p>7.</p>	<p><b>Forward Plan - November 2009 to February 2010</b></p> <p>The Committee considered extracts of items in the Forward Plan for the period of November 2009 to February 2010.</p> <ul style="list-style-type: none"> <li>• Playbuilder Scheme – Members recommended that early consultation should be undertaken on this scheme.</li> <li>• Ealing Development Framework – Members asked for a briefing note on what were the core issues affecting Hillingdon.</li> <li>• The Chairman informed the Committee that 6 monthly more up to date information on the Budget would be submitted to the Committee.</li> <li>• Street Trading Regulations – The Chairman advised that this would not be included in current review but part of a bigger review in the future. <ul style="list-style-type: none"> <li>• Accessible Hillingdon – Supplementary Planning Guidance – Report to be sent to all Members.</li> </ul> </li> </ul> <p><b>Resolved – That items on the Forward Plan be noted.</b></p>	<p><b>Action By:</b></p> <p><b>Gill Brice</b></p>
<p>8.</p>	<p><b>2009/2010 Work Programme – Draft Scoping Reports and Discussions</b></p> <p><b>i. Planning Enforcement – Construction And Use Of Detached Out Buildings (Homes In Back Gardens)</b></p> <p>The object of the review was to ascertain know where the Council was now and whether any improvements could be made to the current processes to speed up the bringing of cases to a conclusion.</p> <ul style="list-style-type: none"> <li>• Where we were now? – details of the department in regards to number of staff and cases and their role in enforcement</li> <li>• List of the issues that officers face on a daily basis</li> <li>• Thoughts and considerations as to how the service could be improved to speed up the process (internal processes and possible changes to legislation)</li> </ul> <p><b>Witnesses – Officers from Planning Enforcement</b></p> <p>James Rodger – Head of Planning and Enforcement Eddie Adamczyk – Enforcement Officer</p>	<p><b>Action By:</b></p> <p><b>Gill Brice James Rodger Eddie Adamczyk</b></p>

<p>8.</p>	<p>ii) Counterfeit Cosmetics and Illegally Imported Foods</p> <p>(Appendix B)</p> <p><u>Imported Illegal Cosmetics</u></p> <p>Report to include:-</p> <ul style="list-style-type: none"> <li>• Introduction to the department and the work undertaken</li> <li>• Case studies showing the process from the start to finish and to include the outcome</li> <li>• What the issues are for officers and what, if anything, can be done to improve the service?</li> <li>• Expand on the issues that arise from the illegal importation of skin lighteners</li> </ul> <p><u>Illegally Imported Foods – Border Control and Whole Sale and Retail</u></p> <p>Report to include:-</p> <ul style="list-style-type: none"> <li>• Introduction to the department number of staff and the department’s role in combating illegally imported foods. <b>(to include outside organisations officers attend)</b></li> <li>• Suggestions on ways officers feel the service could be helped to improve the arrangements for combating the issue of illegally imported foods</li> <li>• More information on Operation Codex 3</li> <li>• Information on the disposal of waste and how it was currently dealt with and where any improvements could be made</li> <li>• Details of the London Food Hygiene – Scores on the Doors Scheme</li> <li>• Visit to Heathrow Airport in early February prior to the committee considering the report and witness session</li> </ul> <p><b>Witnesses- Officers from Trading Standards and the Border Agency</b></p> <p>Shabeg Nagra, Port Health Manager  Sue Pollitt, Divisional Trading Standards Officer  Peggy Law, Consumer protection Manager  Oliver Darius, Principal Environmental Officer  Officer from the Border Agency</p>	<p><b>Action By:</b></p> <p><b>Nadia Williams</b>  <b>Shabeg Nagra</b>  <b>Sue Pollitt</b>  <b>Peggy Law</b>  <b>Oliver Darius</b></p>
<p><b>Resolved –</b></p>		<p>Page 4 -</p>



	<ol style="list-style-type: none"> <li>1. That approval be given to the draft scoping reports and the review into Planning Enforcement – Construction And Use Of Detached Out Buildings (Homes In Back Gardens takes place at the meeting of this Committee on 15 December 2009.</li> <li>2. That officers prepare a report for the review providing details as outlined above for the December meeting.</li> <li>3. That the review into Counterfeit Cosmetics and Illegally Imported Foods be considered at the meeting of this Committee on 19 January 2010, and a report be prepared by officers providing details as outlined above</li> </ol> <p><b>Meeting closed at: 7.00 pm</b></p> <p><b>Next meeting: 15<sup>th</sup> December 2009</b></p>	
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These are the minutes of the above meeting. For more information on any of the resolutions please contact Gillian Brice on 01895 250693. Circulation of these minutes are to Councillors, Officers, the Press and Members of the Public.

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## **FORWARD PLAN: DECEMBER 2009 - MARCH 2010**

Contact officer: Gill Brice  
Telephone: 01895 250693

### **REASON FOR ITEM**

The Committee is required by its terms of reference to consider the Forward Plan and comment as appropriate to the decision-maker on key decisions which relate to services within its remit (before they are taken by Cabinet or Cabinet Member).

### **OPTIONS OPEN TO THE COMMITTEE**

- To comment on items going to the Cabinet or Cabinet Members for decision.
- Or to note the items and decide not to comment.

### **INFORMATION**

#### The Forward Plan

1. The Forward Plan for **December 2009 till March 2010** has been published. Those items that are within this Committee's remit are shown on the attached version of the Forward Plan. The Committee may wish to consider these items and comment to the decision-maker.

#### The next Cabinet meeting

2. The subsequent Cabinet is due to meet on Thursday 17<sup>th</sup> December 2009.
3. Committee Members are requested to send in any questions they have on any items in the attached Forward Plan or in the published Cabinet agenda and reports, and to request any officers that they wish to be present to give advice.

### **SUGGESTED COMMITTEE ACTIVITY**

- To consider whether there are comments or suggestions that the Committee wishes to make that will aid Cabinet's decision-making.

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# The Cabinet Forward Plan

Period of Plan: December 2009 to March 2010

Ref	Report Title	Advance information	Ward(s)	Report to Full Council	Cabinet Member(s) Responsible	Officer Contact	Consultation	Background Documents	NEW ITEM
<p>ASCH&amp;H = Adult, Social Care, Health &amp; Housing; DCEO = Deputy Chief Executive's Office; E&amp;CS = Education &amp; Children's Services; E&amp;CP = Env't &amp; Consumer Protection; F&amp;R = Finance &amp; Resources; P&amp;CS = Planning &amp; Community Services</p> <p><b>CABINET - 17 DECEMBER 2009</b></p>									
400	Botwell Green Sports and Leisure Centre: Library Fit Out and Development of the Astroturf / All-weather pitch	This report to Cabinet will outline the tender results for the fit out and joinary works for the Botwell Library and installation of the outdoor sports element which will form part of the Botwell Green Sports and Leisure Centre.	Townfield (benefiting a wider area)		Cllr Henry Higgins & Cllr Scott Seaman-Digby	P&CS Jean Palmer / Mohamed Bhimani	relevant council departments		<b>NEW</b>
401	Shaping London's future - response to consultation on the Mayor's strategies: The revised London Plan, Transport Strategy and Economic Development Strategy	This report advises Members of the key provisions of three interlinked strategies published for consultation by the Mayor of London in October 2009, namely the London Plan, Consultation draft replacement plan; the Mayor's Transport Strategy, Public Draft; and the Mayor's Economic Development Strategy. The report assesses the implications for Hillingdon of these strategies and contains, in Appendices, separate detailed responses on each of these strategies for approval by Members for submission to the Mayor of London.	All		Cllr Keith Burrows	P&CS Ged Lawrenson		A New Plan for London, Report to Cabinet, 25th June 2009, Report to Cabinet Member	<b>NEW</b>
404	New Years Green Lane Civic Amenity Site	Approval of Tenders for Harvil Road Widening Scheme to facilitate the Civic Amenity Site Redevelopment.	Harefield		Cllr Jonathan Bianco / Cllr Keith Burrows / Cllr Scott Seaman-Digby	DCEO Bill King			<b>NEW</b>

Ref	Report Title	Advance information		Ward(s)	Council	Cabinet Member(s) Responsible	Officer Contact	Consultation	Background Documents	NEW ITEM
		ASCH&H = Adult Social Care, Health & Housing; DCEO = Deputy Chief Executive's Office; E&CS = Education & Children's Services; E&CP = Env't & Consumer Protection; F&R = Finance & Resources; P&CS = Planning & Community Services	ASCH&H = Adult Social Care, Health & Housing; DCEO = Deputy Chief Executive's Office; E&CS = Education & Children's Services; E&CP = Env't & Consumer Protection; F&R = Finance & Resources; P&CS = Planning & Community Services							
387	<b>Street Trading Regulations</b>	This report to Cabinet will detail amendments to the Council's existing Street Trading Regulations. It will present plans, following consultation, in relation to mobile ice cream trading outside schools and within town centres, where nuisances and local concerns have been raised.  Cabinet will also be asked to confirm designations for tables and chairs licensing, shop front licensing and street trading. The proposals will be based on a consultation currently being undertaken with Street Traders.	All	All		Cllr Keith Burrows	DCEO Beejal Soni	Borough Solicitor and licensed traders	Cabinet report dated 13 August 2003	
392	<b>Acceptance of Tenders for Fencing Framework Agreement</b>	This report to Cabinet will be to approve a tender for a Fencing and Gating Framework Agreement for the supply, delivery, erection, maintenance and replair of fencing and gating within the Borough. The two main end users are Green Spaces and Community Leadership Teams, although the contract will be designed with sufficient flexibility for use by other groups such as schools, Hillingdon Homes and the Major Projects Team.	All	All		Cllr Sandra Jenkins / Cllr Scott Seaman-Digby	E&CP Stephanie Jenkins	Corporate Procurement, Legal and Corporate Finance		

Ref	Report Title	Advance information	Ward(s)	Report to Full Council	Cabinet Member(s) Responsible	Officer Contact	Consultation	Background Documents	NEW ITEM
354	<b>The Council's Budget - Medium Term Financial Forecast 2010/11 - 2013/14</b>	This report will set out the Medium Term Financial Forecast (MTFF), which includes the draft General Fund reserve budget and capital programme for 2010/11 for consultation, along with indicative projections for the following three years.	All		Cllr Jonathan Bianco	<b>F&amp;R</b> Paul Whaymand	Internal only with Council departments - the proposals will then be subject to public consultation through the Policy Overview Committee in accordance with the Budget and Policy Framework rules and statutory consultation with business ratepayers	Local government finance settlement information on DCLG website	
368	<b>Gambling Act 2005 &amp; Licensing Policy Review 2009</b> <b>TO BE RECOMMENDED TO FULL COUNCIL</b>	The Gambling Act 2005 requires the Council, as the licensing authority, to review the Gambling Policy every 3 years. This is the first review of the policy since the implementation of the Act in 2007. As a policy framework document, a revised policy must be approved by the full Council and it will be effective between 2010 and 2013.	All	Council on 14 January 2010	Cllr Sandra Jenkins	ECP Stephanie Waterford	Licensing Committee and Responsible Authorities	Gambling act 2005, Gambling Commission Guidance to Licensing Authorities	
SI	<b>Quarterly Planning Obligations Monitoring report - Quarter 2</b>	Regular monitoring report with information about spending on section 106 (developer contribution) monies.	All		Cllr Keith Burrows	<b>P&amp;CS</b> Jales Tippell / Vanessa Scott 01895 250402		Previous Cabinet Reports	

ASCH&H = Adult, Social Care, Health & Housing; DCEO = Deputy Chief Executive's Office; E&CS = Education & Children's Services; E&CP = Env't & Consumer Protection; F&R = Finance & Resources; P&CS = Planning & Community Services

Ref	Report Title	Advance information	Ward(s)	Report to Full Council	Cabinet Member(s) Responsible	Officer Contact	Consultation	Background Documents	NEW ITEM
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## CABINET MEMBER DECISIONS - DECEMBER 2009

402	Ealing's Core Strategy (Ealing Development Strategy 2026: Initial Proposals) & Development Management Policy Documents: Issues and Options	This report updates the Cabinet Member on Ealing's Local Development Framework and the impact on Hillingdon.	All		Cllr Keith Burrows	<b>P&amp;CS</b> Jean Palmer	Ealing Local Development Framework September 2009 comprising:- Core Strategy (Ealing Development Strategy 2026: Initial Proposals) Development Management Policy Document: Issues and Options Background Papers 1 to 5		<b>NEW</b>
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## CABINET - 21 JANUARY 2010

385	Accessible Hillingdon' Supplementary Planning Document	Following Cabinet approval of the SPD in September 2009 for consultation purposes, a report will be brought back to Cabinet for it to consider responses to the SPD and to approve the document.	All		Cllr Keith Burrows	<b>P&amp;CS</b> Ali Kashmiri		Cabinet Report 24 September 2009	
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Ref	Report Title	Advance information	Ward(s)	Report to Full Council	Cabinet Member(s) Responsible	Officer Contact	Consultation	Background Documents	NEW ITEM
391	<b>London Common Permit Scheme for the management of Street Works and Road Works</b>	As part of his decision in September to approve a deferment of the adoption of the scheme in Hillingdon, the Cabinet Member has agreed that a report to Cabinet is produced to consider utilising the London Permit Scheme as part of an overall review of the Management of Street and Road Works to be undertaken this year.	All		Cllr Keith Burrows	<b>E&amp;CS</b> James Birch		Traffic Management Act 2004 Code of Practice for Permits March 2008 Traffic Management Act 2004 Statutory Guidance for Permits March 2008 The Traffic Management Act 2004 The New Roads and Street Works Act 1991 London Permit Scheme	
397	<b>West London Waste Development Plan</b>	A draft of this Local Development Plan Document will be brought Cabinet before it goes out for wider consultation.	All		Cllrs Sandra Jenkins / Keith Burrows	<b>P&amp;CS</b> Christine McKinlay			<b>NEW</b>

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Ref	Report Title	Advance information	Ward(s)	Report to Full Council	Cabinet Member(s) Responsible	Officer Contact	Consultation	Background Documents	NEW ITEM
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## CABINET - 18 FEBRUARY 2010

375	The Council's Budget - Medium Term Financial Forecast 2010/11 - 2013/14 <b>TO BE RECOMMENDED TO FULL COUNCIL</b>	Following consultation, this report will set out the Medium Term Financial Forecast (MTFF), which includes the draft General Fund reserve budget and capital programme for 2010/11 for recommendation to full Council for approval.	All	25 February 2010	Cllr Jonathan Bianco	F&R Paul Whaymand	Public consultation through the Policy Overview Committee in accordance with the Budget and Policy Framework rules and statutory consultation with business ratepayers	Local government finance settlement information on DCLG website	
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## CABINET - 18 MARCH 2010

SI 14	Quarterly Planning Obligations Monitoring report - Quarter 3	Regular monitoring report with information about spending on section 106 (developer contribution) monies.	All		Cllr Keith Burrows	P&CS Jales Tippell / Vanessa Scott 01895 250402		Previous Cabinet Reports	<b>NEW</b>
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# Agenda Item 6

## RESIDENTS' AND ENVIRONMENTAL SERVICES POLICY OVERVIEW COMMITTEE 2009/10

**Contact Officer:** Gill Brice  
**Telephone:** 01895 250693

### REASON FOR ITEM

That the Committee consider revisions to the scheduling of existing and future meetings based upon likely review topics during 2009/10 as set out below:

### WORK PROGRAMME

<b>15<sup>th</sup> December 2009</b>	Witness Session - Planning Enforcement – Construction and use of Detached Outbuildings (Homes in Back Gardens)
	Work Programme for 2009/10
	Cabinet Forward Plan – review forthcoming decisions and if appropriate, comment to the decision-maker
<b>19<sup>th</sup> January 2010</b>	Final Report - Planning Enforcement – Construction and use of Detached Outbuildings (Homes in Back Gardens) (if ready, if not to be submitted to the February meeting)
	Budget Reports and Group Plans 2010
	Work Programme for 2009/10
	Cabinet Forward Plan – review forthcoming decisions and if appropriate, comment to the decision-maker.
<b>17<sup>th</sup> February 2010</b>	Final Report - Planning Enforcement – Construction and use of Detached Outbuildings (Homes in Back Gardens) (if not submitted to the January meeting)
	Witness Sessions 1 - Imported Foods – Border Controls and Wholesale/Retail and Imported Illegal Cosmetics
	Work Programme for 2009/10
	Cabinet Forward Plan – review forthcoming decisions and if appropriate, comment to the decision-maker.

<b>10<sup>th</sup> March 2010</b>	Final Report - Imported Foods – Border Controls and Wholesale/Retail and Imported Illegal Cosmetics
	Work Programme for 2009/10
	Cabinet Forward Plan – review forthcoming decisions and if appropriate, comment to the decision-maker.
<b>13<sup>th</sup> April 2010</b>	Cabinet Forward Plan - review forthcoming decisions and if appropriate, comment to the decision-maker.

# Agenda Item 7

**Review: Planning Enforcement – Construction and use of Detached Outbuildings (Homes in Back Gardens)**

## **Witness session**

**Contact Officer:** Gill Brice  
**Telephone:** 01895 250693

## **REASON FOR ITEM**

To enable the Committee to gather evidence as part of their review into Planning Enforcement – Construction and Use of Detached Outbuildings (Homes in Back Gardens)

## **OPTIONS AVAILABLE TO THE COMMITTEE**

1. Question the witnesses using the suggested questions
2. Ask additional/supplementary questions as required
3. Highlight issues for further investigation if any

## **INFORMATION**

At the Committee's meeting of 18 November 2009 consideration was given to a draft scoping report on a review into Planning Enforcement – Construction and Use of Detached Outbuildings (Homes in Back Gardens). Draft scoping report considered at the meeting on 15 November attached to this report as appendix 1. Briefing Note providing background information provided by Planning Enforcement – Appendix 2.

## **WITNESSES**

Members discussed potential witnesses at their last meeting and it was agreed to examine the current processes and to look at ways where improvements can be made to speed up the process. The following invites have been sent to named officers and departments:

- James Rodger – Head of Planning and Enforcement Services
- Eddie Adamczyk – Planning Enforcement Officer

## **PAPERS WITH THE REPORT**

Draft Scoping report considered at the meeting held on 15 November 2009  
Appendix 1

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Residents' & Environmental Services POC - 15 December 2009

Briefing Note providing background Information provided by Planning Enforcement – Appendix 2

**SUGGESTED COMMITTEE ACTIVITY**

1. Members question the witnesses and identify issues for their review.
2. Members consider the written evidence provided.
3. Members to discuss the evidence gathered to date on their review and note any potential draft recommendations.

**RESIDENTS' AND ENVIRONMENTAL SERVICES  
POLICY OVERVIEW COMMITTEE**

**2009/10**

**DRAFT REVIEW SCOPING REPORT**

**Proposed review title:**

**PLANNING ENFORCEMENT – CONSTRUCTION AND USE OF  
DETACHED OUT-BUILDINGS (HOMES IN BACK GARDENS)**

**Aim of review:**

The committee will review the construction and use of unlawful detached out-buildings (Homes in Back Gardens) in the Borough and the enforcement role the Council plays tackling this.

**Proposed outcome**

A report summarising the Committee's findings would be completed and presented to the Council's Cabinet. The report will present recommendations in relation to the Council's enforcement role against unlawful detached outbuildings being used as homes.

**Draft Terms of reference**

1. To understand the Council's statutory duty enshrined in planning legislation in relation to the enforcement process in relation to illegal use of outbuildings as homes.
2. To examine how the owners of unlawful properties are identified and dealt with.
3. To review the timescales and processes dealing with unlawful properties by the council and other bodies involved, e.g. enforcement, private sector housing, council tax and building control.
4. To investigate whether existing legislation assist the council in tackling the problem effectively.
5. To seek out views from a number of key witnesses and stakeholders
6. To make recommendations to Cabinet, as appropriate.

## **Reasons for the review**

To consider whether there are any improvements that can be made to the processes currently used to improve the enforcement action.

## **Key Issues**

- Concerns about the length of time currently taken in identifying breaches in relation to homes in back gardens?
- What process are currently in place?
- The number of complaints/enquiries in relation to use of buildings in back gardens as homes?
- How can we improve the public perception of our enforcement function and partnership working?

## **Methodology**

The committee will look at the information provided and receive evidence from Officers and other key witnesses, including case studies where there have been prosecutions.

## **Witnesses/Evidence providers**

Officers from Enforcement, Environment, Private Sector Housing, Council Tax Collections, District Valuations Office, Local Police, Elected Members, Fire Brigade,

## **Connected work (recently completed, planned or ongoing)**

Following a review of the Enforcement function undertaken in 2005, the need for an increase in resources was acknowledged by Members and officers alike. As a result, the formation of the Team was enhanced both in terms of management and number of case (Enforcement) officers.

In early 2008 Members agreed to a further increase in the number of permanently employed officers.

Since 2006 working procedures have progressively been evaluated against recognised Best Practice. As a consequence, a number of initiatives have been introduced both in terms of internal procedures and Partnership working. The improved effectiveness of the Enforcement function can be measured against a number of indicators, namely:

- Ability of the Team to investigate/process a marked increase in the number of complaints
- increased number of reports submitted to Planning Committees,
- The number of Enforcement Notices served
- The number of Enforcement Notices complied with



- Number of successful Court prosecutions - resulting in the imposition of substantial fines and awarding of costs,
- The significant number of cases resolved through negotiation - resulting in a financial saving to the Council, and a less combative approach

### **Proposed timeframe & milestones**

<b>Meeting</b>	<b>Action</b>	<b>Comments</b>
15/12/09	Evidence session from officers and key stakeholders	2-4 witnesses
16/01/09	To receive a final draft report for consideration by the committee	Sign off the final report

### **Risk assessment**

Inability of the Council to provide a resourced planning enforcement function capable of providing an adequate level of service may result in:

1. Aggrieved parties complaining to the local Ombudsman resulting in a finding of mal-administration
2. Legal Challenge on behalf of an aggrieved party by way of Judicial Review,
3. Inability to recruit & retain experienced staff.

The review needs to be resourced and to stay focused on its terms of reference in order to meet this deadline.

### **DOCUMENTS ATTACHED**

Information on current position – Appendix A

Example of a recent Enforcement Case setting out timescales – Appendix B

Considerations for a way Forward – Appendix AC

Motion agreed at Council on 5 November 2009 – Appendix AD

## **APPENDIX A**

### **CURRENT PROCESS**

Current Planning Enforcement resources do not enable the concentration of efforts upon individual area(s) of concern, one of which is the unauthorised erection and use of outbuildings within existing residential properties (dwellinghouses).

Primarily, the Council's Planning Enforcement section relies upon nearby residents/ neighbours to advise them of unauthorised outbuildings. Generally neighbours will advise the Enforcement team through emails, the internet or direct phone calls through to the Council's Call Centre.

The Enforcement team also work in co-operation with the Private Sector Housing Team who report potential unauthorised outbuildings. The Enforcement also has strong links with Council Tax Collections who advise of property owners having applied to obtain separate Council Tax rating on outbuildings. The District Valuations Office informs the Council where their officers have seen potential breaches of planning control on site.

The Enforcement team liaise with the local Police who contact the Council where they suspect person(s) to be living in outbuildings. Elected Members, via PCS Enquiries, contact the Enforcement in circumstances where local constituents complain to them direct or where Members have identified outbuildings during their ward walks.

The workload of the Enforcement Team has risen significantly in recent months. Officers contribute the increase to both a heightened awareness on the part of the public of the Enforcement function within the Borough and an overall trend toward non-compliant behaviour resulting from the 'down-turn' in the national economy. This situation, which according to a number of reliable sources is likely to continue for the foreseeable future.

In addition to the above together with the effects of both legislative constraints imposed upon Planning Authorities and the complexity of certain of the cases, concern has been expressed over the ability of the Council to provide an adequate and robust response.

## **APPENDIX B**

### **CASE STUDY LARGE OUT BUILDING BUILT IN REAR GARDEN OF 3 BEDROOM SEMI DETACHED HOUSE IN THE SIPSON AREA.**

The outbuilding in question first came to the attention of the planning department in November 2006 via complaints from nearby residents. A site visit was made by the planning Enforcement officer on the 30 November 2006. Investigations revealed that a large out building had been constructed in the rear garden which was twice the ground floor area of the parent building being 99 sq m in area.

Letters were sent out to the owner in both December 2006 and February 2007 advising the owner of the planning breach and requesting that they contact Planning Services. A telephone call was received from the owner on the 3 May 2007; the owner was advised to reduce the size and height of the building. The owner advised officers that he would be submitting a planning application to retain the building as built. Further phone calls from the owner were received on the 10 May and 5 June 2007.

An application for planning permission for retention of the outbuilding, submitted on the 10 December 2007, was refused by the Council on the 19 May 2008 and the matter passed back to the Enforcement.

A subsequent enquiry of H M Land Registry established details of parties with an interest in the land. Liaison with Public Sector Housing officers revealed prior knowledge of the outbuilding/use as a separate dwelling. The Council Tax Collections were also advised of the breach in planning control.

On 30 September 2008 a further site visit undertaken by the Enforcement case officer provided evidence (including photographic) of both sleeping and kitchen facilities were present and in use. With the assistance of the Building Control Surveyors, plans submitted as part of an application for approval under Building Regulations were inspected.

On 9 October 2008, in an effort to ascertain further information: when the outbuilding was built and details of person(s) resident, a PCN was issued/served. A further check of the site revealed a lady (a North Korean national) to be residing in the outbuilding.

Subsequently, the land-owner submitted an application for the grant of a Certificate of Lawfulness of Existing Development (CLUED) - later to be withdrawn.

The PCN questionnaire, having been completed, was received on the 21 October 2008.

On 6 January 2009 a report was placed in front of the Planning Committee, as a result of which Members authorised the taking of formal Enforcement action. On 29 January 2009 a Notice was served upon both the owner and person with an interest in the property. Subsequently, the land-owner submitted an

Appeal against the service of the Notice which resulted in a hearing taking place on 3 September 2009.

On 17 September 2009 the Decision letter was published, dismissing the Appeal and upholding the Notice. As a consequence of the Appeal process, the date for compliance with the requirements of the Enforcement Notice has been re-scheduled until 17 December 2009 by which time the outbuilding is to be demolished and all materials, plant and machinery associated with the works removed from the site.

## **APPENDIX C**

### **CONSIDERATIONS FOR A WAY FORWARD**

- A review of IT systems to identify ready access/exchange of intelligence,
- Put in place a mechanism for inter-Service working - forum for Team Managers to discuss cases/strategy,
- Encourage a Corporate approach in terms of both speed and level of response.

The ability to efficiently access information would not only minimise the time taken to progress investigations, Services/officers would be encourage to adopt a 'corporate approach'. All too often the public are frustrated by the time taken to bring about a resolution to matters perceived to impact adversely upon their lives.

Several of the legal/procedural processes Planning Enforcement have to adhere to, are both complex and time consuming. Although, in terms of securing a long-term planning solution this would remain to be the case, in order to bring about a more immediate and tangible improvement a 'lateral' approach could be adopted.

By encouraging a corporate approach as a result of which robust and timely action is taken against the abuse of statutory controls, the Council would both enhance its image in the eyes of the public and provide a deterrent to all those intent upon non-compliant behaviour.

#### **Proposal for working closely/what would work well**

As stated above, the ability for officers to readily access (share) intelligence would constitute a major step forward, likely to result in enhanced inter-departmental working and the more efficient use of resources (officer time/effort).

Such facility would have benefits across the Council, lessening the time taken to progress investigations and instigate the taking of action as appropriate.

Although a number of officers (particularly those with an investigatory background) seek assistance from colleagues within other disciplines, current Council processes not encourage the taking of a corporate approach.

In addition to the introduction of compatible IT systems, other improvements to working practices need to be considered: agreed protocols for inter-Directorate working, regular case review meetings and a forum for Managers to explore further initiatives/partnership working.

Some, if not all, of the regulatory controls administered by the Council are complex, particularly in terms of legislation and Governmental guidance. In

order that complaints (and other matters) are thoroughly investigated and action taken, it is essential that officers are employed appropriate to their given area of expertise/qualifications.

It is recognised that some form of 'over-arching' management would be required to enable the various Teams within the Council to function efficiently. However, the Council should avoid the trap of bringing all regulatory functions/staff within one centralised Team. In the case of other Local Authorities, experience has shown such an approach to have been unsuccessful, resulting in the re-creation to specialist Teams with counter-productive consequences i.e. loss of staff and expertise.

## **APPENDIX D**

### **MOTION FROM COUNCIL – 5 NOVEMBER 2009**

This Council is aware that there is strong public concern about the development of out buildings in back gardens particularly for use as rented homes.

This Council notes that it is a growing problem not helped by the government's changes to the planning system with regard to permitted development rights. It is pleased to note that officers for Planning Enforcement, Private Sector Housing and the Councils Tax collection teams are now working together on this issue and that this issue will be given full scrutiny through the RESPOC and through the HIP process.

This Council calls upon the Cabinet Member for Planning & Transportation to look at this issue in depth and then take appropriate action including lobbying Central Government to review this long ignored area of Planning Legislation to give it more teeth to prevent this spread of what is often un-neighbourly development.

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## **PLANNING ENFORCMENT - CONSTRUCTION AND USE OF DETACHED OUTBUILDINGS (HOMES IN BACK GARDENS)**

### **WHERE WE ARE NOW**

The planning enforcement team currently comprises of one part time Enforcement Team Manager, one full time deputy team manager, five full time enforcement officers and one full time technical support officer to the team.

In the period of the 1 January 2009 to 30 November 2009, the team has received 753 enforcement cases, of these cases 54 cases related to complaints regarding outbuildings in the Borough between 1 January 2009 to 30 November 2009.

### **ISSUES FACED**

The enforcement team deals with a variety of issues from alleged breaches of planning control: alterations to listed buildings, changes of use, non compliance with planning conditions, buildings/structures, demolition in conservation areas, advertising structures, cutting/felling or pruning of protected trees and hedgerows, failure to comply with the requirements of planning legal notices such as Section 106 notices, enforcement notices, breach of conditions notices and stop notices and taking further prosecution or injunctive action where appropriate.

When investigating possible breaches of planning control where outbuildings are concerned, the main issues which enforcement officers face is proving that the outbuilding is being used as a separate residential dwelling.

Officers often find it difficult to gain access into an outbuilding or getting the appropriate information in terms of names of occupiers, rental or tenancy agreements. Unfortunately, it is a fact of life that many of the owners are not living at the property and are therefore difficult to track down.

Other issues are the complexity of the legislation and especially legislative constraints and case law which require the Council to prove that the outbuilding is being used as a separate residential dwelling and not incidental to the main dwelling house.

Enforcement Officers do have statutory rights of entry under Section 196 (A) of the Town and Country Planning Act 1990 (as amended) and where officers are denied entry by owners/occupiers, letters are written advising owners of an appointment to view the property with a minimum of 24 hours notice. If they are denied entry, prosecution action can be taken or applications can be made to the Court for a warrant to enter the premises.

During this period changes can be made to the outbuilding, in an effort to mask and conceal the fact that it is being used as a separate residential unit. The investigatory process can then become a time consuming process.

Officers can also serve Planning Contravention Notices to gain further information on the use of the outbuilding, including any copies of tenancies, rental agreements etc. Again a minimum of 28 days is given to the owners to reply back to the Council's questions. It is a criminal offence not to return the completed notice and questions. Often owners will try and prolong this process for their own gain.

## **CRIMINALISATION OF THE PLANNING PROCESS**

In respect of criminalisation of breaches of planning control, the Government reviewed enforcement procedures in the Carnwath Report entitled "Enforcing Planning Controls" (February 1989) when it was decided not to make unauthorised breaches a criminal offence.

Any change to the law would have a major impact on households within the country and lead to an increase in resources being required to police the new laws. Inevitably criminalisation of planning breaches may not be politically acceptable as it would be contrary to governments desire to reduce regulatory controls and it would require a review of working practices/ procedures.

The complicated nature of the planning process does not make the criminalisation of building development very easy, especially as it would take away the transgressors right to challenge planning policies or give them the opportunity to negotiate a solution.

## **PROFESSIONAL ADVICE**

Officers are bound by the Enforcement Concordat introduced by Central Government whereby the Enforcement Service is governed by the protocols of Consistency, Proportionality, Openness and Helpfulness.

Communication to all members of the public is given in an open, transparent and courteous manner by officers. It is not appropriate/ acceptable for officers to act as planning agents for any transgressors. All information given to the transgressor is based upon the planning merits and facts of the case. Officers are actively discouraged not to favour one side against the other.

## **WHAT NEEDS TO BE DONE**

### **IMPROVEMENTS TO THE SERVICE**

1 ) As already mentioned in the report to the Committee on the 18 November 2009, the planning enforcement team is looking to set up an inter departmental forum involving Private Sector Housing, Council tax, Housing Benefits and Building Control to meet up on a regular basis to exchange views, intelligence and work more closely in dealing with unauthorised outbuildings Corporately.

The enforcement team has already built up direct links with various outside bodies such as the District Valuer, The Border Agency, Fire Brigade and local Police to share intelligence where appropriate.

Significant progress has been made to enable both the exchange of information and working with other Council departments and outside agencies.

2 ) Currently changes are also being made to the working protocol between Planning Enforcement and Planning Officers dealing with retrospective planning applications and changes to the Ocella Database, which will flag up enforcement concerns to planning officers.

3 ) Where appropriate, if retrospective planning applications for retention of outbuildings or separate residential dwellings are submitted to the Planning Committee with recommendations to refuse planning permission, officers will also be required to write enforcement reports under Part B of the agenda on the same Planning Committee with recommendations for the taking enforcement action. This will speed up the time for the Council to take enforcement action were it is considered expedient and the outbuilding is considered to be unacceptable in planning terms.

4 ) Improvements are currently being undertaken under the Ocella Enforcement database system to enable enforcement officers to work smarter and effectively: adding more functions on to the database and creating new protocols between the enforcement team and The Borough Solicitor to expedite matters in the time taken to serve enforcement notice(s).

#### POSSIBLE CHANGES TO LAW

Presently part of the problem in controlling the use of outbuildings as separate residential units is the fact that under the provisions of Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (Class E) house owners can build outbuildings under Permitted Development without the need to apply for express planning permission to the Council.

1 ) An amendment could be sought from central government (delete to) requiring owners to apply for planning permission for outbuildings with a floor area greater than 25 m sq (measured externally). This would effectively bring a larger number of outbuildings under planning control but allow smaller structures to be built without recourse to the Local Planning Authority.

Although this would increase the workload in terms of number of planning applications received, it would bring into the control of the planning authorities outbuildings which were previously outside Local Governments direct control. Wording of an amendment would have to be carefully drafted to ensure that owners could not get round the General Planning Development Order by building a number of smaller structures.

2 ) Other possible changes to the law could be under the Building Regulations Act 2000 whereby changes to the schedule of exempt buildings schedule could be made (delete in the) under Regulation 9, of Schedule 2, Class VI (Small detached buildings). Currently the floor area of a outbuilding not exceeding 30 sq m is exempt from building control under the building acts, this figure could be reduced to 20 sq m bring more outbuildings under the control of the Council.

3 ) The Local Planning Authority could consider the imposition of Article 4 Directions on certain areas in the Borough, in particular those wards where the problem of outbuildings is most prevalent.

The Article 4 direction would take away the permitted development rights to build these structures in the rear garden and would require the householder to apply for planning permission.

A study showing the effect of these structures and the consequences in the area would need to be carried out to back up the Council's case. The study along with a formal application could then be given to the Department of Communities and Local Government for confirmation of Article 4 status in these particular wards.

This would then require householders to apply for planning permission for outbuildings and give the Council greater control over the size and use of these buildings in these particular wards.

It should be noted that under the current planning legislation the issue of an Article 4 Direction can lead to the risk of compensation through the withdrawal of planning permission by way of an Article 4 Direction removing the householders Permitted Development rights.

The new provisions of the Planning Act 2008 will introduce protection from payment of compensation providing the Local Planning Authority give notice of the withdrawal of Permitted Development rights to all affected for a period of 12 months before the legislation comes into effect.