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OVERVIEW & SCRUTINY PANEL

Minutes of the meeting held on 26 September 2023 at 7.00 pm in Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Present: Councillor Phil Fellows (Chair); Councillors D Green, Austin, Bright, Britcher, Currie, d'Abbro, Davis, Pope, Rusiecki, Wing and Wright

In Attendance: Councillors Everitt, Garner and Keen

473. APOLOGIES FOR ABSENCE

Apologies were received from the following Members:

Councillor Paul Moore, substituted by Councillor Rusiecki;
Councillor Farooki, substituted by Councillor Joanne Bright;
Councillor Kup, substituted by Councillor Wright;
Councillor Packman.

474. DECLARATION OF INTERESTS

There were declarations made at the meeting.

475. MINUTES OF PREVIOUS MEETING

Councillor Austin proposed, Councillor Davis seconded and Members agreed the minutes to be a correct record of the Panel meeting held on 20 July 2023.

Cllr Austin asked the Leader whether he was going to consider the request for the possibility of making minutes a bit more informative in terms of being specific about which Member made contributions during debate. Councillor Everitt responded and said that this was something that could be discussed in a different forum. The Leader was happy to discuss the issue informally outside of meetings and potentially at the Constitutional Review Working Party meeting.

476. CABINET MEMBER PRESENTATION BY THE LEADER - UPDATE ON THE PLANNING ENFORCEMENT REVIEW

Councillor Rick Everitt, Leader of the Council made a presentation and raised the following points:

- The Council's planning enforcement operated on a complaints based system which meant prioritising beaches when carrying out its enforcement function;
- Currently this functioned was carried out by the Planning Enforcement Officer and Planning Enforcement Assistant both of whom report to the Planning Applications Manager;
- The team prioritised breaches that caused significant irreparable damage to listed buildings, harm to specially protected areas including conservation areas, other visually prominent buildings and protected trees, breaches to section 106 agreements and significant and unacceptable harm to living conditions;
- The Council would investigate if a breach had occurred and then seek if the matter could be resolved without formal action where possible, securing an application for the work or alteration that would be compliant to the planning policy and deciding whether or not to take action when the investigation was concluded;

- The decision should always be in the public interest and sound planning grounds that were compliant to planning policy;
- Council would always investigate breaches as reflected by the summary statistics shown for the period 2020-2022;
- Between 2020 and 2022 the Council had served 41 enforcement notices;
- Recent successful prosecutions led to significant fines for the offending individuals, (as reflected in the presentation slides attached as an annex to this minute item);
- A previous Scrutiny Panel had reviewed this subject and had come up with some points to consider for improvement (as detailed in the same annex);
- Council a Section 106 Enforcement Fee. This had helped recruit a new 106 Monitoring and Infrastructure Delivery Officer;
- This was an additional resource to the Enforcement Team;
- The Council had secured a new database system (IDOX Cloud). This would increase the enforcement team's capacity for publishing case information on the Council website. This was expected to go live in 2024
- A new monthly compliance development meeting led by a Principal Planning Officer would be regularly held that would coordinate compliance activities for new housing development to promptly identify any breaches at the earliest stages of development.

Members asked questions and made comments as follows:

- One Members asked to what extent did the Council investigate individuals who developed without consent and to what extent did that happen in the district?
- Another Member welcomed the additional resource to the enforcement team by the employment of another officer. They then asked how many hours each of the officers worked per week;
- A Member asked whether the Monitoring Officer was involved with any of the enforcement activities;
- Another Member said that it had previously been a frustration to get enforcement information the Council website and hoped that the additional resource to the team would improve access to enforcement information;
- They said that there should be a disincentive for retrospective applications;
- One Member asked how the Council prioritised planning enforcement work considering the limited resources at its disposal;
- They further asked if there were ways that the Council could use to communicate enforcement updates to complainants. Some residents complained that they did not get acknowledgements when they submit complaints about breaches;
- Another Member welcomed the plan by the enforcement team to put additional information on the website. This would save a great deal of officer time;
- A Member asked when the Local Plan would be finalised considering that the DCO issue had now been finalised.

Councillor Everitt and Bob Porter, Director of Place responded to Member questions and comments as follows:

- A previous Overview and Scrutiny Panel had reviewed the Council's planning enforcement protocol but had not concluded its work. The Panel came up with some suggestions for improving the planning protocol;
- The review was resolved due to the new Regeneration Bill which had significant implications on planning enforcement;
- The statistics presented included those incidents where the individuals developed properties without proper planning consent;
- The additional resource in the team would enable the team to provide more detailed categories of the breaches in the information that is on the Council website;

- The information would also include the outcomes of all investigations;
- The current two officers in the enforcement team each worked 37 hours a week;
- The team had been chasing developers with s106 commitments to ensure that they fulfilled their commitments. This was huge task and coming of this additional resource would help with this aspect of the team's work;
- The team produced evidence and then worked with the Legal Department to enforce planning requirements;
- If complainants were not responded to, they should approach the Head of Housing and Planning or Director of Place;
- As a minimum, officers should provide an update on a complaint case to complainants;
- The National Planning Policy was currently being reviewed by Government. This would give steer to local councils on how they could progress and finalise their respective Local Plans.

Members noted the report and thanked Councillor Everitt for the presentation.

477. HEALTH & SAFETY POLICY

Matt Sanham, Head of Finance and Procurement introduced the report and said that the Health and Safety Policy was being refreshed after being adopted three years ago. The updates took into consideration the new corporate senior management structure.

Members asked questions and made comments as follows:

- Did officer monitor where there are health and safety incidents?
- Was dust monitoring part of this policy?
- Was there a system for confidential reporting?
- How was the Council managing to provide mental health support to staff working from home?
- The Internal Audit report at a Governance & Audit Committee meeting reported that there was no Health and Safety Policy. Would the adoption of this policy cover that issue?
- Who should Members speak to if they wanted to discuss health and safety issues?
- Was there an intention to provide occasional reports to Members?
- How did the Council monitor electric safety for employees working from home?

Matt Sanham and Stewart Bundy, Safety & Compliance Officer responded to Member questions as follows:

- A complaints officer reports to the Safety and Compliance Officer to make a formal report on an incident;
- These reports would be added to the website and the Trade Unions would also be made aware of these incidents;
- The current set up was working well;
- All near misses were recorded centrally at a corporate level and reports are considered by the Corporate Management Team (CMT);
- The Health and Safety Executive (HSE) dealt with the environmental side of health and safety, which included noise monitoring;
- The Safety and Compliance Officer was responsible for monitoring the council employees side which included dust monitoring;
- There was a compliance officer to whom staff could report confidentially any health and safety concerns;
- Mental health for staff was an issue that fell under Human Resources' monitoring responsibility;

- The adoption of this Health and Safety Policy by Cabinet in October would cover the issue raised in the Governance and Audit Committee's Internal Audit report;
- Moving forward, officer would be providing regular health and safety update reports to Members;
- Officers had carried out risk assessment for home working. The onus was on the staff working from home to make sure that their workspace was fit for purpose;
- Managers were also supposed to conduct one to one sessions with staff when conducting these risk assessments.

478. THREE YEAR EXTENSION OF THE DOG PUBLIC SPACE PROTECTION ORDER

Penny Button, Head of Neighbourhoods introduced the report and said that this public spaces protection order was adopted three years ago and no changes had been made protection order. Officers have had positive feedback regarding traffic lights system for exclusion zones.

One Member asked if officers monitored incidents, particularly in the parking areas and whether this included dog on dog incidents. The Member further asked whether there was any policy for dog walking in the parks and enforcement regarding dog poo in local streets.

Penny Button said that park areas were not covered by this Public Spaces Protection Order. The dog wardens were involved in the enforcement of this Order. This year the beach enforcement team would be working throughout winter and help with the enforcement.

Members noted the report.

479. REVIEW OF OVERVIEW AND SCRUTINY WORK PROGRAMME FOR 2023/24

Councillor Davis proposed that the Panel considered a new scrutiny topic on a sea link project at Minster marshes. This issue should be considered on an urgent basis as this was a serious environmental matter that was emerging and would affect the local area. Councillor Davis suggested that the National Grid representatives be invited to a Panel meeting to discuss their intentions and how this was going to affect the local communities.

The Chair agreed to discuss with the Democratic Services how to progress this request.

Councillor Britcher, Chair of the Tourism Working Party gave an update on the work of the working party and said that they had held two meetings, investigating the negative impact of tourism for the district. Bob Porter, Louise Askew and Mike Humber made presentations at one of the meetings. The working party Chair said that he hoped to bring the final report to the Panel in January 2024.

Responding to the Working Party update, one Member requested that the working party include in its report the positive contributions tourism was bringing to the district. However, the Panel was advised that the purpose of the review was to consider the negative impact of tourism to the district and suggest ways to mitigate that impact and learn some lessons from other councils who had faced similar circumstances.

Councillor Currie suggested and Members agreed that the Panel invites Councillor Albon to the next scheduled Panel meeting on 21 November 2023 to discuss the issue regarding broken bins.

The Panel Chair sought Members views regarding a request by a Member not in attendance at the meeting to consider inviting Manston Airport representatives to a discussion on how they going to get the site open for business. The Panel had agreed at

a previous meeting to invite the representatives but further agreed that this should be done after the DCO decision had been made by the Courts.

Members made comments as follows:

- Thanet District Council a statutory duty regarding Manston Airport and this was a planning issue. There was no point in the airport representatives attending a Panel meeting;
- Another Member said the DCO resolved the planning issue. They said this was not a planning issue at all;
- The principles of scrutiny as set out to Members during the induction training supported the idea that the Panel ought to review any matters affecting the local communities. The Panel needs to get update information about the airport site. The Panel needs to hear their plans about the airport being carbon neutral;
- One Member said that as an authority TDC should be weary to invite the airport representatives;
- Another said that the object of scrutiny is to scrutinise something that has been presented to the Panel. At the moment nothing had been presented to Thanet District Council. That meant the Panel could not scrutinise anything.

Sameera Khan, the Interim Head of Legal and Monitoring Officer advised the Panel that because there were Panel members who are also members of the Planning Committee, it was therefore not appropriate to consider this matter at Scrutiny as this would amount to pre-determination. It was therefore advisable for the Panel to invite the airport representatives when all planning matters were concluded.

Councillor Austin proposed and Councillor Kristian Bright seconded that Levelling Up Fund and Town Deal projects updates be presented at all future in the form of Gantt chart, for Members to stay informed of the implementation progress. However, this would not require officer attendance at each meeting.

The Chair agreed to take this proposal forward and discuss with the officers.

Members noted the report.

480. FORWARD PLAN AND EXEMPT CABINET REPORT LIST

Members noted the report.

Meeting concluded: 8.10 pm

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Thanet District Council



Update on Planning Enforcement

Overview & Scrutiny Panel

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Planning Enforcement

- The Planning Enforcement team consists of a Planning Enforcement Officer and Planning Enforcement Assistant, both directly reporting to the Planning Applications Manager.
- The Council operates a complaints based system, prioritising breaches that cause;
 - significant irreparable damage to Listed Buildings,
 - harm to specially protected areas including conservation areas,
 - other visually prominent development and protected trees,
 - breaches to Section 106 agreement, and
 - significant and unacceptable harm to living conditions.
- The Council investigates allegations of planning breaches by:
 - establishing if a breach has occurred
 - Seeking to resolve the matter without formal action where possible (securing an application for the work or alteration to comply with planning law and policy)
 - deciding whether or not to take action following conclusion of investigation (must be in the public interest on sound planning grounds) if it is expedient to do so.

Complaints Received

Year	Complaints	Enforcement Notices Served
2020	330	12
2021	399	13
2022	361	16

Recent Prosecutions

Address	Offence	Hearing Date	Outcome	Fine
140 Grange Road Ramsgate	Non-compliance with S215 notice	28.07.2023	Found guilty	Nominal amount due to financial circumstances
192 Margate Road Ramsgate	Non-compliance with enforcement notice	26.07.2023	Found guilty	£8,056.00 + victim surcharge
Manston Court Bungalows	Non-compliance with Breach of condition notice x 2	20.06.2023	Found guilty	£6,250.00
Sea Bathing	Non-compliance with breach of condition and S215 notices	31.01.2023	Found guilty	£700 fine, costs of £1,460 and a further £80 victim surcharge.
123 Canterbury Road	Non-compliance with S215 notice	06.06.2022	Found guilty	£40,000 for his summary conviction (reduced on appeal to £10,000), £2,500 for his guilty plea to failure to surrender to summary trial
Westgate Bay Cafe	Non-compliance with breach of condition notice	07.02.2022	Found guilty	£1,250

Previous Review 2021/22

- Members resolved that the following issues should be considered in the Enforcement review:
 - Determine the potential utility of a planning enforcement portal on the council's website to provide updates to members of the public and elected members on current cases, as well as increasing the availability of information about the Enforcement process for the public;
 - Identify how the council could come up with a more effective system of prioritising planning enforcement cases;
 - Determine how best to improve communication between the council and complainants regarding planning enforcement cases being handled by the council;
 - Determine how best the council could include proactive work in the planning enforcement protocol.

Previous Review 2021/22

- The review was paused in June 2022 (as reported to OSP) due to the publishing of the Levelling Up and Regeneration bill, which will have significant implications on planning enforcement, including:
 - removing the “four-year rule” after which time operational development (and change of use to dwellinghouses) in breach of planning control is immune from enforcement action, meaning that all enforcement breaches will be subject to the “ten-year rule”.
 - creation of “Enforcement Warning Notices” to be served on breaches of planning control requiring an application be submitted when there is a “reasonable prospect” of planning permission being granted.
 - requirement on applicants to submit “Commencement notices” in relation to approved development upon the start of on-site work, with a register kept by the Local Authority, whilst a “Completion notice” would be able to be served on developments not meeting the identified targets in the commencement notice.

Improvements made

- The Council introduced a Section 106 Monitoring Fee in April 2023, specifically to fund the recruitment of a new S106 Monitoring and Infrastructure Delivery Officer. The officer started in July 2023 and has created additional enforcement capacity in requesting/securing planning obligations.
- The Council has procured a new planning database system, Idox Cloud, which includes increase functionality for Planning Enforcement, with the ability to published case information via the Council's website (expected go live by the end of next year).
- A new monthly development compliance meeting led by a Principal Planning officer is coordinating action on new housing development between planning assistants for conditions, trees, S106 officer and both enforcement officer to ensure any breaches of conditions/legal agreements are identified at the earliest stage.
- Provision being made in budget for next year to utilise additional planning fee income to create an additional planning enforcement role.

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