

**MINUTES OF THE REGULATORY COMMITTEE
TUESDAY, 29 MAY 2012**

Councillors Basu, Beacham, Christophides, Demirci, Ejiofor, Mallett, McNamara, Peacock, Reid, Schmitz, Scott and Solomon

Apologies Councillor Brabazon

Also Present: Councillor Egan

MINUTE NO.	SUBJECT/DECISION	ACTION BY
REG53.	<p>APOLOGIES FOR ABSENCE</p> <p>Apologies for absence were received from Cllr Brabazon.</p>	
REG54.	<p>URGENT BUSINESS</p> <p>There were no new items of urgent business.</p>	
REG55.	<p>DECLARATIONS OF INTEREST</p> <p>Cllr McNamara declared a personal interest in agenda item 9, as a member of the Overview and Scrutiny Committee, and Chair of the Environment Scrutiny Panel, which was likely to undertake a review of Planning Enforcement.</p>	
REG56.	<p>MINUTES</p> <p>RESOLVED</p> <p>That the minutes of the meeting held on 12 April 2012 be approved and signed by the Chair as a correct record.</p>	
REG57.	<p>ESTABLISHMENT OF LICENSING SUB COMMITTEES</p> <p>The Committee considered a report on the establishment of two Licensing Sub Committees to conduct the majority of licensing hearings and on the provisions for the appointment of substitutes.</p> <p>RESOLVED</p> <p>i) That the terms of reference of the Regulatory Committee in the Council's Constitution be noted, and the terms of reference of the Licensing Sub-Committees be confirmed.</p> <p>ii) That the establishment of two Licensing Sub</p>	

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	<p>Committees with the membership set out in Appendix 2 to the report, as tabled at the meeting on 29 May 2012, be agreed.</p> <p>iii) That the provisions in the Committee Procedure Rules, Part 4, Section B of the Constitution and the delegations to the Head of Local Democracy and Member Services for the appointment of a substitute member of a Licensing Sub Committee from among the members of the Regulatory Committee when the permanent Sub-Committee Member is unable to attend for any reason be noted.</p> <p>iv) That it be noted that the Council Procedure Rules in Part 4 B of the Constitution do not apply to licensing hearings only in those areas where they conflict with the Local Licensing Procedure Rules and the relevant Acts and Regulations which take precedence.</p>	
REG58.	<p>DECISIONS MADE UNDER DELEGATED POWERS BETWEEN 26 MARCH 2012 AND 13 MAY 2012</p> <p>The Committee considered a report on decisions made under delegated powers by the Head of Development Management and the Chair of the Regulatory Committee between 26 March and 13 May 2012. The following points were discussed:</p> <ul style="list-style-type: none">• Cllr McNamara suggested to the Director of Place and Sustainability that, where space standards were not met in premises that had applied for certificates of lawfulness, such applications should be automatically refused. It was agreed that Paul Smith would meet with the Director of Place and Sustainability to discuss the feasibility of this approach.• It was further recommended that wherever such applications were granted, appropriate follow-up enforcement be undertaken to ensure that health and safety issues were addressed; Paul Smith advised that Planning did consult with the Housing Improvement team regarding such issues, and that further dialogue would take place to look at what could be done further to ensure that appropriate standards were applied.• Paul Smith provided some further clarification on the procedural differences around planning permissions and certificates of lawfulness; as certificates of lawfulness were governed by national legislation, the Local Authority was currently unable to change the regulations around this process, although the Localism Act may enable such changes to be made in future.• It was confirmed that an application for a certificate of	

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	<p>lawfulness could be submitted as an alternative to an application for retrospective planning consent for certain types of work, as both were processes to regularise works already carried out.</p> <ul style="list-style-type: none">• In response to a question regarding the overall position in respect of Lawrence Road, it was reported that at the current time, no planning application had been submitted.• Further to a recent discussion with Steve Russell, Cllr Schmitz advised the Committee that under section 257 of the Housing Act 2004, building regulations can be enforced for any HMO, even if the regulations in question came into force after the conversion had taken place.• It was agreed that a report would be produced on the decision in respect of Bruce Castle Court, Lordship Lane, both in respect of the length of time taken to determine an application made in 2010, and whether a separate application had been made on the site in respect of double-glazed windows. <p>NOTED</p>	
<p>REG59.</p>	<p>APPEAL DECISIONS DETERMINED DURING MARCH AND APRIL 2012</p> <p>The Committee considered a report, previously circulated, on the outcome of 11 planning appeal decisions determined by the Department for Communities and Local Government during March 2012 of which 1 (9%) was allowed and 10 (91%) were dismissed. No planning appeals were decided during April 2012.</p> <p>NOTED</p>	
<p>REG60.</p>	<p>DEVELOPMENT MANAGEMENT, BUILDING CONTROL AND PLANNING ENFORCEMENT WORK REPORT</p> <p>The Committee considered a report, previously circulated, on performance statistics for Development Management, Building Control and Planning Enforcement since the 12th April 2012 Regulatory Committee. The Committee expressed serious concern regarding the 0% performance reported for several months in respect of the determination of major applications within 13 weeks, which was not felt to be acceptable. It was reported that additional staff had been taken on to address some performance issues, although performance on appeals was very positive.</p> <p>The Committee requested information on how long it had actually taken for applications to be determined, where they</p>	

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	<p>had missed the 13- or 8-week target. It was agreed that this information would be provided. In response to a question from the Committee regarding benchmarking performance against other local authorities, it was noted that this data could be accessed from the DCLG website.</p> <p>NOTED</p>	
REG61.	<p>PLANNING ENFORCEMENT UPDATE - YEAR REPORT 2011-12</p> <p>The Committee considered a report, previously circulated, on the Planning Enforcement update for the year 2011/ 12. It was suggested that the previous discussion regarding cases closed as ‘not expedient’ could be revisited at a future meeting, and that the minutes of that discussion circulated for the benefit of new Members of the Committee. The following matters were discussed:</p> <ul style="list-style-type: none">• It was agreed that details of the case at 60 St Paul’s Road, N17 would be emailed to Cllrs Peacock and Christophides.• Tony Michael, Legal Advisor, advised the Committee that the administering of a caution was an efficient way of dealing with cases as it ensured that enforcement notices were complied with. Mr Michael explained that a warrant case was where someone had failed to appear in court, as a result of which a warrant for their arrest had been issued and they had yet to be located. Such cases were unusual, and were reviewed periodically.• In response to a question regarding POCA, it was reported that following a conviction, the Council had the opportunity to apply for a confiscation order for the repayment of benefit accrued, where money had been made as a result of the breach. It was advised that this amounted to significantly more money being repaid to the Council than would be recovered by a fine being issued, as the Council would receive 18.75% of the amount agreed, to be used for planning enforcement. It was confirmed that, were the Council to be the initiating authority as well, they would receive a further 18.75% (37.5% in total) and that this was an incentive to train staff up as investigators, as was the model in other local authorities. It was confirmed that existing staff were receiving training, following the receipt by the Council of the first funds as a result of POCA.• In response to a question regarding the issue of recovering housing benefit paid for unlicensed HMOs, it was reported that this was an issue the Council was currently looking into, with the support of Legal Services.• Where the owner of a property could not be identified,	

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	<p>Mr Michael confirmed that the local authority did have powers to enforce the terms of the enforcement notice, but that use of such powers was extremely rare. Efforts tended to be concentrated on locating the owner, and the level of action taken would depend on the level of the breach and expediency.</p> <ul style="list-style-type: none">• An example was given of a recent planning application where details of the enforcement history on the site had not been incorporated into the planning details given on the website, and the Committee asked how enforcement history fed into to the planning application process. Mr Smith advised that enforcement and planning data were held on separate databases, although these were cross-referenced; it was now happening that enforcement history should appear as a section within the template for planning decisions and would therefore be visible on the website in relation to planning applications.• In response to a request for further information on progress with the works undertaken where a caution had been accepted, Mr Michael confirmed that cautions were administered only where compliance had already been achieved, and the works to comply with the notice were therefore complete.• Referring to statistics around customer satisfaction, the Committee asked whether this data included feedback from those who had made initial complaints, and Mr Smith agreed to look into this.• The Committee asked whether it would be possible for Members who had received Planning training in recent years to attend a shorter version of the training, focussing on recent legislative changes, rather than attending the full-day training once more. Mr Smith advised that Members were encouraged to attend as much of the training as possible, but that he would look into this issue. It was emphasised that Members being appropriately trained and being seen to be appropriately trained was necessary in order to protect the Council against judicial review of Planning decisions.	
REG62.	<p>NEW ITEMS OF URGENT BUSINESS</p> <p>There were no new items of urgent business.</p> <p>The meeting closed at 20:08hrs.</p>	

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CLLR ALI DEMIRCI

Chair