

**MINUTES OF THE REGULATORY COMMITTEE  
TUESDAY, 21 FEBRUARY 2012**

Councillors Basu, Beacham, Brabazon, Demirci (Chair), Hare, Peacock (Vice-Chair), Rice, Schmitz, Scott and Waters

Apologies Councillor Erskine and Mallett

MINUTE NO.	SUBJECT/DECISION	ACTION BY
REG28.	<p><b>APOLOGIES FOR ABSENCE</b></p> <p>Apologies for absence were received from Cllr Mallett and Cllr Erskine.</p>	
REG29.	<p><b>URGENT BUSINESS</b></p> <p>There were no items of urgent business.</p>	
REG30.	<p><b>DECLARATIONS OF INTEREST</b></p> <p>There were no declarations of interest.</p>	
REG31.	<p><b>MINUTES</b></p> <p><b>RESOLVED</b></p> <p>That the minutes of the meeting held on 24 November 2011 be approved and signed by the Chair.</p> <p><u>Matters arising</u></p> <ul style="list-style-type: none"> <li>• The Chair encouraged members of the Committee to respond to the evaluation of the Governance Review and also to the request from Cllr Strickland for people to participate in the LDF Member Advisory Group. It was confirmed that participating in the Advisory Group would not constitute a subsequent conflict of interest in determining planning applications, and was a way of ensuring that all Members had the opportunity to engage in the process.</li> <li>• It was requested that an item on the scheme of delegation be added to the agenda for the next meeting.</li> <li>• It was confirmed that changes to Licensing regulations permitting Councillors to make representations on licensing applications had already been made, and that it was further proposed that the vicinity test be removed.</li> <li>• It was confirmed that the period after which unauthorised works were established and therefore immune from enforcement action was 4 years and that this was the same for works within Conservation Areas.</li> <li>• Cllr Schmitz agreed to circulate details of the arrangements for housing benefit paid to unlicensed HMOs to be returned to the Council, and it was agreed that the minutes would from now on be</li> </ul>	<p>All</p> <p>Cllr</p>

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	<p>circulated at an earlier stage in order to enable actions to be picked up sooner.</p> <ul style="list-style-type: none"> <li>It was anticipated that enforcement notices dating from 1 January 2012 should be available online from the end of March 2012, with a facility to request older notices. The Committee would check that this was complete at the 12 April meeting.</li> </ul>	Schmitz
<b>REG32.</b>	<p><b>REVIEW OF FEES AND CHARGES - LICENCES</b></p> <p>Kevin Bartle, Lead Finance Officer, presented the report recommending increases to the Council's licensing fees and charges for services with effect from 1<sup>st</sup> April 2012. Mr Bartle made it clear that where "N/A" was shown in the appended schedule of proposed charges, this should be read as "no increase", as it was not the case that no charge applied for these items.</p> <p>The following points were raised in discussion of this item:</p> <ul style="list-style-type: none"> <li>Concern was expressed regarding traders operating without permits on Spurs matchdays, including some operating out of residential gardens, and asked whether it was possible for greater enforcement of such issues. Myles Joyce, Planning Enforcement Team Leader, agreed to feed the Committee's views back to the Enforcement team, and it was also suggested that Homes for Haringey might wish to look into the issue of stalls operating from their properties. Cllr Schmitz further advised that ticket touts could be prosecuted for obstruction of the highway.</li> <li>Wood Green tube station was identified as a further area where additional enforcement action was needed, as this area attracted ticket touts when there were concerts at Alexandra Palace.</li> <li>The Committee asked whether comparative information on fee increases had been sought from other boroughs; it was reported that this had been undertaken the previous year, but that it was proposed to adopt a blanket increase this year.</li> <li>In response to a question regarding whether it would be possible to further increase charges for traders operating on Spurs matchdays, Mr Bartle advised the Committee that the principle of cost recovery had to be adhered to. In terms of cost recovery, the Committee asked about the significant increase in fees at Alexandra Palace between an event attended by 2,500 people and another attended by 2,501. It was agreed that this issue would be referred back to the relevant Service for further information.</li> <li>The Committee noted that betting premises were amongst those whose maximum fees were prescribed by the Secretary of State, as set out in pages 16-18 of the agenda.</li> <li>The Committee raised the issue of a local GP only being permitted a single parking permit for their bay, which caused difficulty, for example when this space was required by a locum. It was agreed that this information would be passed on to Ann Cunningham for attention.</li> <li>The Committee noted the legal advice that certain fees and</li> </ul>	<p>M Joyce</p> <p>Clerk</p> <p>Clerk</p>

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charges may not be set by the Cabinet in accordance with legislation, but questioned the rationale behind these Regulations.

**RESOLVED**

That the Committee approve the increase to the Council's licensing fees and charges, as per the appendix attached to the report, with effect from 1<sup>st</sup> April 2012, subject to an equalities impact assessment being carried out and any subsequent changes then required being delegated to the Director of Place and Sustainability and the appropriate cabinet member.

**REG33. SECTION 106 MONITORING REPORT**

Marc Dorfman, Assistant Director, Planning Regeneration and Economy, presented the report on the Council's s106 policy and guidance, s106 agreements signed and administered between 2005 -11 and the distribution of the s106 funds received by the Council. Of the approximately £13m received, around £3.7m remained unspent, of which £0.7m related to monitoring activity. Mr Dorfman advised that there were currently two sites of significant concern, Winns Mews and Markfield Road, totalling around £138k, and that the possibility of legal sanction was being explored in these instances. A number of other schemes which were close to their payment deadlines were also being monitored, totalling around £300 – 400k.

The following points were raised in discussion:

- Mr Dorfman would check the length of time the schemes at Winns Mews and Markfield Road had been given for the payment of the s106 monies owed, and would report this back to the Committee.
- It was confirmed that £7.7m was owed in respect of Hale Village, of which the majority was outstanding. Mr Dorfman reported that the renegotiated s106 agreement was close to completion; the signature of this would trigger an immediate payment of £3.2 – 3.5m, with the rest to be triggered at further points during the development. The s106 agreement had been brought back twice to the Planning Sub committee for revision, and it agreed that this was unusual. The revised agreement for Hale Village was scheduled for completion in March 2012, and it was felt unlikely that this date would slip.
- Concern was expressed that the recent decision in respect of Spurs might set a precedent for other large developments, such as Hale Village, and that in agreeing to renegotiate the s106, the Council had appeared compliant in accepting reduced contributions. Mr Dorfman advised that it was a balance; if a hard line were taken and the construction on the site was closed down due to non-payment, then there would be no chance of recovering the monies owed. Where issues arose with a development that had previously been considered appropriate for permission, for example as a result of a decrease in land values, it was reasonable that renegotiation of the s106 be brought to the Planning Sub Committee for consideration. Mr Dorfman advised

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that the Spurs decision was not a precedent for other schemes.

- Mr Dorfman agreed that he would check the date after which LVE could appeal the s106 obligations in respect of Hale Village, and would report this back to the Committee.
- The Committee asked about education formula; Mr Dorfman advised that this was a detailed formula based on child yield predictions, calculated by a mathematical model which linked in with other boroughs. It was agreed that the formula would be sent to Cllr Schmitz for information.
- Mr Dorfman reported that a legal agreement had been signed in respect of the Wards Corner development, but no money had been paid over as consent had subsequently been overturned and any contribution had therefore not been triggered.
- It was agreed that a training seminar on the Community Infrastructure Levy would be held for Committee Members.
- Mr Dorfman agreed to check that no figures were double-counted by being included in categories for both 'not implemented' and 'value negotiated / received', but advised that significant effort had been made to ensure that figures were not double-counted in the report.
- The Committee noted the scale of the concessions made in respect of the s106 for the Spurs development, when compared against the total s106 receipts as outlined in the report. It was reported that Spurs was an unusual scale in comparison with other sites in the borough, and must be considered in the context of the associated investment.
- The Committee asked about the education component in wards such as Highgate, where there were significant areas which were not within the catchment area for Haringey schools. Mr Dorfman reported that it was general practice not to transfer any s106 payments to other authorities, although an agreement had been made in respect of the Spurs application for a contribution to be made to Enfield. Haringey was also working with Enfield to look at the distribution of s106 contributions between the two boroughs in respect of proposed residential developments situated north of the North Circular. It was confirmed that education contributions were distributed across the borough, on the basis of need.
- In response to further discussion around Hale Village, and why the Council should not take a firmer stance, Mr Dorfman reported that this was an option, but that legislation afforded developers the opportunity to argue their case in respect of s106 agreements and viability. Mr Dorfman reported that it was important that, once a scheme had been identified as valuable, the planning authority made efforts to bring that development forward. With regards to Tottenham Hale, an approach requiring a developer to take a significant loss by meeting s106 contributions agreed under different economic conditions could have longer term impacts on land values and regeneration reputation in Tottenham Hale.
- The Committee asked about overage in respect of Hale Village, and Mr Dorfman reported that whether overage payments would be triggered was dependent on the wider economic position and the national and London property market.

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	<ul style="list-style-type: none"> <li>• The Committee suggested that a land charge should have been considered at Hale Village in order to ensure that the Council received payment at the point when the sale of blocks had been completed. Mr Dorfman advised that issues around viability at Hale Village had been looked into, and that such a land charge would have impacted on the developer's ability to borrow. It was agreed that Mr Dorfman would look into the suggestion that land charges be considered in respect of future developments and report back to the Committee regarding this issue.</li> <li>• The Committee was advised that, were there significant further delay in contributions being made in respect of Hale Village, or payment trigger points reached in the development without the developer advising the authority, then a position would be reached where an enforcement approach would be necessary.</li> <li>• It was noted that Hale Village was providing affordable housing in addition to the s106 payments due, which did offer the Council savings on its temporary accommodation budget.</li> <li>• It was agreed that Mr Dorfman would provide all Committee Members with an update on the position in respect of the Hale Village development, the s106 agreement for which was due for signature in March 2012, triggering an immediate payment of £3.2 / £3.5m</li> </ul> <p><b>RESOLVED</b></p> <p>That the content of the report be noted.</p>	<p>M Dorfman</p> <p>M Dorfman</p>
<p><b>REG34.</b></p>	<p><b>DEVELOPMENT MANAGEMENT, BUILDING CONTROL AND PLANNING ENFORCEMENT WORK REPORT</b></p> <p>The Committee considered a report on performance statistics for Development Management, Building Control and Planning Enforcement.</p> <p>The following points were raised in discussion of this item:</p> <ul style="list-style-type: none"> <li>• It was reported that Building Control's records had been affected by the fire at 639 High Road during the riots last August as they had been largely in hard copy. Significant efforts had been made to clean the microfiche records and obtain replacement paper copies, and the records would now be digitised. Mr Dorfman noted that while August and September statistics did show a reduction in performance during this time, this had recovered by October and was a testament to the outstanding work put in by Building Control.</li> <li>• The Committee asked whether there was a way of presenting the progress of enforcement cases more clearly, such that it was easier to identify the case outcomes and monitor the progress of ongoing cases. It was agreed that Mr Dorfman and Mr Joyce would look into how this could be achieved. Members were invited to forward suggestions on this issue to officers outside the meeting.</li> <li>• It was agreed that a session would be held for Members covering</li> </ul>	<p>M Joyce / M Dorfman</p>

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the various procedures and the steps through which a Planning Enforcement case might progress, looking at several case-studies. Members felt that this would be useful. Members were advised that the service standards as appended to the report on expediency later on the agenda gave an indication of the timescales for different stages of Planning Enforcement cases.

- In respect of 12 Willoughby Road, it was agreed that Cllr Schmitz would pass Mr Joyce's contact details onto neighbouring properties for information.
- The Committee asked about the status of the 8-week process; it was reported that this had previously been an important indicator as it was linked with funding received – this was no longer the case, and the process was now more qualitative. Where a case was likely to exceed 8 weeks, the authority remained in contact with the applicants to keep them informed of progress and to advise of the likely timescales. Applicants had the right to appeal for non-determination in cases exceeding 8 weeks.
- Members were encouraged to submit questions arising from the reports to officers in advance of the meeting where possible, in order to ensure that the appropriate information could be made available.
- The Committee questioned the Article 4 direction in respect of 152 Gospatrick Road – Mr Joyce agreed to double-check that Article 4 was applicable in this case, although it was noted that regardless of the outcome of this, the site was within a Conservation Area.

**RESOLVED**

That the content of the report be noted.

**REG35. PLANNING ENFORCEMENT UPDATE - THREE QUARTERLY REPORT 2011-12**

The Committee considered the Planning Enforcement update for the first three quarters of 2011/12, April to December 2011 inclusive, as presented by Myles Joyce, Planning Enforcement Team Leader.

The following points were raised during discussion and questions from the Committee:

- The Committee asked how the team were notified of breaches, in response to which Mr Joyce advised that many were via neighbours or Councillors, but also other services and Council departments, private sector contractors and housing referrals, etc. Members suggested that there should be more public encouragement for residents to report any breaches they were aware of.
- It was felt that a headline news story should be issued whenever the Council secured a conviction in respect of Planning Enforcement, and it was confirmed that the press office were notified of all such cases.
- Mr Joyce confirmed that all aspects of reporting a breach could be

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undertaken anonymously, with the exception of giving evidence if a case went to court. Members of the public could also make a report via a local Councillor, or a Planning Enforcement officer in order to remain anonymous. It was felt that this should be more widely publicised.

**RESOLVED**

That the content of the report be noted.

**REG36. PLANNING ENFORCEMENT - EXPEDIENCY**

The Committee noted the report on the issue of expediency with regard to appraising formal planning enforcement action, and were asked to consider a number of anonymous case-studies where enforcement action had been considered not expedient for discussion of the issues.

The following points were raised during discussion:

- In all cases, it was necessary to balance the harm caused against proceeding with enforcement action.
- Surveys undertaken in 2004 and 2008 for the Tower Garden Estate had provided baseline data against which breaches could be identified as immune from enforcement action or not, which had led to greater efficiency in prosecution and obtaining compliance.
- The Committee expressed concern that there was a risk that smaller developments were more likely to be penalised for exceeding approved measurements than larger developments, and that it was important that the system was seen to be consistent and fair. It was acknowledged, however, that in assessing harm caused by a breach, there was greater potential for harm as a result of overdevelopment on a smaller site.
- In response to the Committee's concerns regarding sites not complying with measurements stipulated by the Planning Sub Committee, it was reported that where any such breaches were reported these would be looked into, but in assessing whether enforcement action should be taken there was an obligation to consider the issue of harm arising.
- It was suggested that simple illustrated leaflets setting out what was expected in respect of development in certain areas, for example a Conservation Area, might be a cost-effective way of reducing the likelihood of enforcement action being necessary. Mr Joyce reported that such guidance had been issued in the past, and that consideration would be given to areas where such an approach might be beneficial with a view to revisiting this.
- The Committee expressed concern regarding the size of the Planning Enforcement team, in light of the caseload; it was reported that administrative support had now been engaged, and that the enforcement officer resource would be increased by 1. A bid had been submitted for a further dedicated resource in respect of HMO licensing and Article 4 directions.

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	<ul style="list-style-type: none"><li>• Concern was expressed regarding setting out examples of issues where enforcement action was unlikely to be taken, as this might lead to people undertaking breaches and taking the chance that these were not likely to be enforced, on the basis of what the Council had set out.</li><li>• It was confirmed that, since the large backlog of cases had mostly been cleared in 2008/09, it had been possible to take a more proactive approach. The aim was to continue to reduce the number of cases considered not expedient.</li><li>• In response to a suggestion that ward councillors might be consulted on cases proposed for closure as not expedient to enforce, the efficacy of such a measure was questioned, as it was likely that Councillors would prefer that enforcement action be taken in the majority of cases.</li></ul> <p><b>RESOLVED</b></p> <p>That the content of the report be noted.</p>	
<b>REG37.</b>	<b>NEW ITEMS OF URGENT BUSINESS</b>  There were no new items of urgent business.	
<b>REG38.</b>	<b>DATES OF FUTURE MEETINGS</b>  12 April 2012, 7pm.  The meeting closed at 9.55pm.	

CLLR ALI DEMIRCI

Chair