



NOTICE OF MEETING

Meeting: Planning (Enforcement) Sub-Committee

Date and Time: Monday, 4 July 2016 at 10.00 am

Place: Council Chamber, Civic Offices, Fleet

Telephone Enquiries to: Mrs Alison Cottrell 01252 774141
alison.cottrell@hart.gov.uk

Members: Blewett, Oliver, Southern, Woods

Joint Chief Executive

CIVIC OFFICES, HARLINGTON WAY
FLEET, HAMPSHIRE GU51 4AE

AGENDA

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AND BRAILLE ON REQUEST**

- 1 ELECTION OF CHAIRMAN**
- 2 ELECTION OF VICE CHAIRMAN**
- 3 MINUTES OF PREVIOUS MEETING**

The Minutes of the meeting held on 7 March 2016 are attached to be confirmed and signed as a correct record. **Paper A**

4 APOLOGIES FOR ABSENCE

5 CHAIRMAN'S ANNOUNCEMENTS

6 DECLARATIONS OF INTEREST

To declare disclosable pecuniary, and any other, interests.

**7 INJUNCTION - OCCUPATION OF DWELLINGS IN BREACH OF
CONDITION 3 OF PLANNING PERMISSION I3/02085/MAJOR
(RESIDENTIAL DEVELOPMENT OF 89 DWELLINGS AND ASSOCIATED
HIGHWAY WORKS, LANDSCAPING AND PUBLIC OPEN SPACE.
LAND ADJACENT TO HATCHWOOD PLACE, FARNHAM ROAD,
ODIHAM, HOOK, HAMPSHIRE**

To inform Planning Enforcement Sub-Committee of urgent action authorised by the Joint Chief Executive under Ref 263 of the Hart District Council Constitution Scheme of Delegation to Officers to make an urgent decision, following consultation with the Leader of the Council, to authorise the seeking of an injunction under Section 187B of the Town and Country Planning Act, 1990 with regard to the occupation of dwellings in breach of Condition 3 of planning permission I3/02085/MAJOR (Residential development of 89 dwellings and associated highway works, landscaping and public open space. Land Adjacent to Hatchwood Place, Farnham Road, Odiham, Hook, Hampshire).

Paper B

RECOMMENDATION

Planning Enforcement Sub-Committee note the action taken by the Joint Chief Executive under Ref 263 of the Hart District Council Constitution Scheme of Delegation to Officers to make an urgent decision, following consultation with the Leader of the Council, to authorise the seeking of an injunction under Section 187B of the Town and Country Planning Act, 1990 with regard to the occupation of dwellings in breach of Condition 3 of planning permission I3/02085/MAJOR (Residential development of 89 dwellings and associated highway works, landscaping and public open space. Land Adjacent to Hatchwood Place, Farnham Road, Odiham, Hook, Hampshire).

Date of Despatch: 27 June 2016

Notes:

The Human Rights Act 1998 (the Act) has incorporated part of the European Convention on Human Rights into English law. Any recommendation either to take or not to take enforcement action has been assessed to make sure that the decision is compatible with the

Act. If there is a potential conflict, this will be highlighted in the individual report on the relevant item.

PLANNING (ENFORCEMENT) SUB-COMMITTEE

Date and Time: 7 March 2016 at 10am

Place: Council Chamber, Civic Offices, Fleet

Present:

COUNCILLORS

Blewett, Morris (substitute Gorys), Oliver, Southern (Chairman)

Officers:

Nick Steevens	Head of Regulatory Services
Emma Whittaker	Planning Manager
Sarah Castle	Principal Planning Officer
Sharon Whittaker	Enforcement Officer
Sylvia O'Connor	Enforcement Officer
Wendi Batteson	Shared Legal Services
Alison Cottrell	Committee Services

The Meeting commenced at 10.05 am

15 MINUTES OF PREVIOUS MEETING

The Minutes of the meeting held on 7 December 2015 were confirmed and signed as a correct record.

16 APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillor Gorys (substitute Morris).

17 CHAIRMAN'S ANNOUNCEMENTS

None.

18 DECLARATIONS OF INTEREST

None declared.

19 LAND AT KEEPERS COTTAGE (KEEPERS LODGE), FARNHAM ROAD, FARNHAM, SURREY.

Members considered the requirement to consider taking direct planning enforcement action as a way of carrying out works in default to remedy a breach of planning control and a failure to comply with an Enforcement Notice.

Members discussed:

- The history of the site.

- Whether there was an owner or an occupier on the land.
- Whether there was anyone in occupation on the land.
- The current state of the land.

RESOLVED

To delegate to the Head of Regulatory Services the authority to take direct planning enforcement action to remove all structures and items connected with the unauthorised use of the land for residential purposes including the mobile home, and to make good the land at Keepers Cottage (Keepers Lodge), Farnham Road, Farnham, Surrey, the requirements of which are set out in the Enforcement Notice dated 6 March 2012.

20 IMPROVEMENT PLAN

Members received a verbal update on the Improvement Plan.

Members discussed:

- Enforcement Training for Parish Councils together with the cost of the training.
- The benefits of using an external trainer.
- Whether the District Councillors can be asked via the next Council meeting to encourage their Parish Council's to attend the Enforcement Training.
- The way in which enforcement updates are provided to Councillors.
- Whether it is possible to proactively enforce that builders do not work on a Saturday and Sunday (out of hours working) causing a nuisance to neighbours close to a site together with what out of hours work is acceptable and what is not acceptable.
- The Out of Hours service for breaches of planning conditions by a builder and how it works.
- That a first call to the Out of Hours service will result in the problem being logged. That subsequent calls in relation to an issue that has already been logged will result in an officer attending the site (in relation to planning enforcement breaches).
- Whether the improvement plan could be brought back to the next meeting with final details to be made available at that time.

Following the previous item being proposed and seconded it was

RESOLVED

That the Improvement Plan would be brought back to the next meeting with final details being made available at that time.

21 PLANNING ENFORCEMENT PLAN

Members received a verbal update on the Planning Enforcement Plan and noted Consultee responses.

Members discussed:

- That minor amendments to the Planning Enforcement Plan could be passed to the Head of Regulatory Services to be made and then be published as soon as possible.

Following the previous item being proposed and seconded it was

RESOLVED

That the Planning Enforcement Plan would be passed to the Head of Regulatory Services to make the minor amendments and then publish the Plan.

The meeting closed at 11.10 am

PLANNING ENFORCEMENT SUB-COMMITTEE

DATE OF MEETING: 4 JULY 2016

TITLE OF REPORT: INJUNCTION - OCCUPATION OF DWELLINGS IN BREACH OF CONDITION 3 OF PLANNING PERMISSION 13/02085/MAJOR (RESIDENTIAL DEVELOPMENT OF 89 DWELLINGS AND ASSOCIATED HIGHWAY WORKS, LANDSCAPING AND PUBLIC OPEN SPACE. LAND ADJACENT TO HATCHWOOD PLACE, FARNHAM ROAD, ODIHAM, HOOK, HAMPSHIRE

Report of: HEAD OF REGULATORY SERVICES

I PURPOSE OF REPORT

- 1.1 To inform Planning Enforcement Sub-Committee of urgent action authorised by the Joint Chief Executive under Ref 263 of the Hart District Council Constitution Scheme of Delegation to Officers to make an urgent decision, following consultation with the Leader of the Council, to authorise the seeking of an injunction under Section 187B of the Town and Country Planning Act, 1990 with regard to the occupation of dwellings in breach of Condition 3 of planning permission 13/02085/MAJOR (Residential development of 89 dwellings and associated highway works, landscaping and public open space. Land Adjacent to Hatchwood Place, Farnham Road, Odiham, Hook, Hampshire).

2 OFFICER RECOMMENDATION

- 2.1 Planning Enforcement Sub-Committee note the action taken by the Joint Chief Executive under Ref 263 of the Hart District Council Constitution Scheme of Delegation to Officers to make an urgent decision, following consultation with the Leader of the Council, to authorise the seeking of an injunction under Section 187B of the Town and Country Planning Act, 1990 with regard to the occupation of dwellings in breach of Condition 3 of planning permission 13/02085/MAJOR (Residential development of 89 dwellings and associated highway works, landscaping and public open space. Land Adjacent to Hatchwood Place, Farnham Road, Odiham, Hook, Hampshire).

3 THE ISSUE

- 3.1 On 22nd August 2014 Planning permission was granted subject to a number of conditions and a number of planning obligations within a S106 legal agreement (deed of variation) for 89 Dwellings on land adjacent to Hatchwood Place.
- 3.2 A condition was applied to the consent requiring foul capacity on and off site to serve the development to be demonstrated prior to commencement and that the approved scheme be implemented prior to occupation. Such was the concern regarding the impact of the additional properties on the existing drainage system, officers were instructed that Condition 3 shall not be discharged until they have been subject to an

independent review and the findings agreed in consultation with the Ward Councillor.

- 3.3 Following the independent review, consultation with Thames Water and the Ward Councillor, the details of the drainage solution were agreed.
- 3.4 Condition 3 of I3/02085/MAJOR requires that:
(Excepting Access works) Requirement for foul capacity on and off site to serve the development to be demonstrated prior to commencement and required the approved scheme to be implemented prior to occupation.
The wording of the condition means that no breach of condition would exist until first occupation of the properties.
- 3.5 On Tuesday 14th June 2016, a complaint was made by a member of the public alleging that properties at the site were being occupied. Following a visit to the site on that day officers observed that the dwellings on plots 10 and 11 were in fact occupied.
- 3.6 On multiple occasions prior to the 14th June officers had repeatedly and unequivocally advised the developer that should any open market dwelling be occupied prior to the discharge of the relevant conditions or the requirements of the S106 agreement that Shared Legal Services would be instructed to take legal action. The developer was asked to provide an undertaking that no market dwellings would be occupied until all of the issues were resolved, they did not respond to this request.
- 3.7 In order to establish whether the drainage system was implemented as required by the planning condition, the Enforcement Team Leader Maxine Lewis visited the site on the 21st June 2016 with the Consultant Engineer. The findings of the site visit were that the foul drainage system had not been fully completed. The consultant engineer identified that the large underground storage tank intended to hold the foul water was not installed. The pumps, control kiosk, valves, access covers, vent pipes, electronic and telemetry controls, wash out and internal vertical pipework had also not been installed. An interim measure of holding the foul water in a section of the sewer pipe which was subsequently removed from site by sewage truck was being utilised.
- 3.8 The occupation of the two dwellings has invoked the provisions of conditions 3 (foul water infrastructure). It is therefore also now necessary for the Council to be satisfied that the works in respect of the foul drainage system are completed/ implemented/operational in accordance with the submitted and agreed details relating to this condition precedent.
- 3.9 Research by enforcement officers has identified that to date there have been 2 occupations. At present a further 8 are indicated as sold and 6 reserved.
- 3.10 Due to the potential of occupation of further dwellings prior to discharge of the condition relating to the foul drainage system the Joint Chief Executive determined that immediate legal proceedings were necessary and proportionate. The decision has been made in consultation with the Leader of the Council to issue proceedings for an Injunction to cease any additional occupations until the approved drainage solution has been fully implemented.

4 CONCLUSION

- 4.1 The National Planning Policy Framework clearly identifies *Effective enforcement is important as a means of maintaining public confidence in the planning system. There has been a flagrant disregard of the conditions imposed by the developer which could not be accepted.*
- 4.2 Hart's own General Policy on Enforcing Planning Control states in Policy PE1(c) that *...the Council will exercise all reasonable powers granted under the provisions of the Planning Acts, including all other subordinate legislation, and other relevant legislation to control unauthorised development effectively.*
- 4.3 The Joint Chief Executive was consulted and the decision was made to progress with an injunction. Failure to take action for the breach of condition would have been disproportionate and undermined public confidence in the Council. The developer had the option to apply to revise the drainage condition and ample warning was given to the developer to ensure the condition was not breached.

Contact Details: Nick Steevens
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PLANNING (ENFORCEMENT) SUB-COMMITTEE

Date and Time: 4 July 2016 at 10am

Place: Council Chamber, Civic Offices, Fleet

Present:

COUNCILLORS

Blewett, Oliver, Southern

Officers:

Nick Steevens	Head of Regulatory Services
Sylvia O'Connor	Enforcement Officer
Wendi Batteson	Shared Legal Services
Alison Cottrell	Committee Services

1 ELECTION OF CHAIRMAN

Councillor Oliver was elected as Chairman.

2 ELECTION OF VICE CHAIRMAN

Councillor Southern was elected as Vice Chairman.

3 MINUTES OF PREVIOUS MEETING

The Minutes of the meeting held on 7 March 2016 were confirmed and signed as a correct record.

It was noted that the Improvement Plan had not been brought back to this meeting but that it would be brought to the next Planning (Enforcement) Sub Committee meeting.

4 APOLOGIES FOR ABSENCE

None.

5 CHAIRMAN'S ANNOUNCEMENTS

None.

6 DECLARATIONS OF INTEREST

None declared.

7 INJUNCTION – OCCUPATION OF DWELLINGS IN BREACH OF CONDITION 3 OF PLANNING PERMISSION 13/02085/MAJOR (RESIDENTIAL DEVELOPMENT OF 89 DWELLINGS AND ASSOCIATED HIGHWAYS WORKS, LANDSCAPING AND PUBLIC OPEN SPACE). LAND ADJACENT TO HATCHWOOD PLACE, FARNHAM ROAD, ODIHAM, HOOK, HAMPSHIRE

Members were informed of the urgent action authorised by the Joint Chief Executive under Ref 263 of the Hart District Council Constitution Scheme of Delegation to Officers to make an urgent decision, following consultation with the Leader of the Council, to authorise the seeking of an injunction under Section 187B of the Town and Country Planning Act 1990 with regard to the occupation of dwellings in breach of Condition 3 of planning permission 13/02085/MAJOR.

Following a report from the Head of Regulatory Services, members discussed the following:-

- That there is no intention to make people homeless but merely to ensure compliance.
- That injunctive proceedings can be secured quickly and will solve the problem of further occupation.
- That injunctive proceedings were the best and quickest way to resolve the situation going forward.
- That this would also be an effective deterrent to other developers who may be tempted to breach similar conditions.
- What would take place following imposition of an injunction and what penalty would be imposed on the developer should they then breach the injunction.
- That two properties were currently occupied and that as an interim measure, foul water was being held in a section of sewer pipe that had been capped. This was then removed from the site twice a day, by a sewage truck.
- That this interim measure of removing foul water by sewage truck would be effective for up to 12 occupied homes.
- How much work needs to take place to secure completion of the foul drainage system.
- That the pump and tank are missing and at the time of the visit, there was some doubt as to whether the tank had been ordered.
- That the required tank is a bespoke tank and would take some time to manufacture.
- That residents at Herons Way are sometimes disturbed by the sewage collection trucks if they collect late in the evening.
- Whether late evening / night sewage collection by the lorries can be prohibited to ensure residents in Herons Way are not disturbed.

DECISION

Planning Enforcement Sub-Committee note the action taken by the Joint Chief Executive under Ref 263 of the Hart District Council Constitution Scheme of Delegation to Officers to make an urgent decision, following consultation with the Leader of the Council, to authorise the seeking of an injunction under Section 187B of the Town and Country Planning Act, 1990 with regard to the occupation of

dwellings in breach of Condition 3 of planning permission 13/02085/MAJOR
(Residential development of 89 dwellings and associated highway works, landscaping
and public open space. Land Adjacent to Hatchwood Place, Farnham Road, Odiham,
Hook, Hampshire).

The meeting closed at 10.35am