

Scrutiny Panel A Review – Maintaining balanced neighbourhoods through planning

Enforcement - Table of feedback up to 28th January 2014

Member feedback	Feedback within Inquiry Enforcement ToR
Cllr Moulton	<ul style="list-style-type: none"> • More robust planning enforcement needed from the Council and enforcement team. Fears that the Council are seen as a soft touch by rogue developers • Planning permission is not required for HMOs existing pre April 2012. Would like to see more thorough checks brought in to verify that those properties were in fact HMOs. The current process is not robust.
Cllr Noon	<ul style="list-style-type: none"> • No real concerns around the approach of planning enforcement.
Residents Groups	Feedback within inquiry Enforcement ToR
Pointout Residents' Group (PRG)	<ul style="list-style-type: none"> • Pointout Residents' Group submitted (Appendix 4). • Endorses the recommendations to be presented by Highfield Residents Association. • The SPD and the planning system in general are ineffective without proper, rigorous and fast enforcement of breaches. We agree that temporary stop orders would be a valuable tool for Local Planning Authorities to operate. • We acknowledge that the Planning Enforcement team is chronically under resourced and has an almost impossible backlog to tackle. • PRG would like to see more transparent relations between Planning and Legal. In our experience there have been unnecessary delays in enforcement because Legal appeared to 'sit' on cases, effectively facilitating continued planning breaches.
Highfield Residents Association (HRA)	<ul style="list-style-type: none"> • Endorses the submission submitted by Pointout Residents' Group (see Appendix 4). • HRA recognise that the council has to act within the law and that a major constraint on undesirable development is the inability to issue a Temporary Stop Notice without risk of compensation against unauthorised residential uses (at present the Council has to wait for a breach to occur to serve an Enforcement Notice to require the use to cease). • The above would require a change in the law, and HRA alongside other resident groups are already vigorously lobbying for this change. • There is the question of adequacy of the resources allocated to enforcement, even though there has been some recent increase.

	<ul style="list-style-type: none"> • Officers give the impression that they are keener to find reasons for not taking action than for taking action. • There does seem to be a marked reluctance on behalf of officers to (a) accept resident's evidence in the first place and (b) to act expeditiously in the enforcement against newly created HMOs. • This then gives the impression there is an implicit tolerance of these types of breaches and encourages landlords and developers to take advantage as they believe "they can get away with it" – this is sending out the wrong message. • It would be helpful if officers could confirm that, as enforcement is a matter of fact rather than discretionary judgement, unlawful uses are normally enforced against. • Dealing with various aspects of HMOs absorbs a not insignificant amount of Council resources. It is therefore considered as to whether, if the Council tax cannot be levied on landlords, some other form of financial charge should be applied. • The level of fines for breaches should be increased. Levels could increase on a daily basis. • LPAs should be allowed to charge normal planning application fee for HMOs (currently excluded by the A4D). • Appeals should require a fee. • To be a limit on the number of repeat applications per (HMO) site. • Landlords should be liable to prosecution in cases where their tenants are found to be repeatedly responsible for noise and other forms of nuisance. • It is strongly arguable that a planning contravention should itself be an offence, as being an unlawful action, irrespective of the eventual outcome in retrospective applications/ appeals. • HRA would like to see council officers take a more proactive, less risk-averse approach in marginal cases. • HRA would like to see the council commit to implementing the Proceeds of Crime Act at the completion of the Enforcement/ Appeal processes.
<p>East Basset Residents Association (EBRA)</p>	<ul style="list-style-type: none"> • Endorses all statements made by Highfield Residents Association. • Faced with a 'catch 22' situation of Enforcement Officer being unable to act until tenants are residents in the property concerned and a clear contravention has taken place and the council are then unable to act because the tenants would be made homeless if turned out. • Have encountered problems caused by the present Enforcement regulations, they are:- <ul style="list-style-type: none"> (a) Properties, previously solely occupied as family homes, advertised by letting agencies as student lets without submission of the necessary planning application to convert from C3 to C4.

	<p>(b) Where planning applications to convert have been refused by the council and dismissed on appeal when there is uncertainty that letting to a family will continue or multiple lettings may be taking over.</p> <ul style="list-style-type: none"> • EBRA believe that there is no legal obligation on letting agencies for them to act to prevent owners from advertising their property as a student let, irrespective of the present or past circumstances of that property. • Where owners have committed a contravention, the present position of being unable to pursue enforcement because tenants would be made homeless can be used to the advantage of the landlord. • EBRA requests the council to seek stronger legislative powers to control such exploitation. • EBRA contends that the impact of having a tenancy termination, while a severe imposition on a family or single person without immediate assistance, is different in the case of student occupied properties. Where hardship would arise, any new legislation would need alleviation to be available according to the type of tenancy. The availability of rapid re-housing should be taken into account. HMOs for student occupation are plentifully supplied within the city, vacant rooms for student lets are advertised all year round and students have the dedicated support of their Students' Union and Accommodation Unit to give immediate help.
<p>Portswood Residents Gardens Conservation Area (Planning group)</p>	<ul style="list-style-type: none"> • Endorses the recommendations to be presented by Highfield Residents Association. In particular:- <ul style="list-style-type: none"> (1) a more robust system for enforcement and imposition of penalties for failure to adhere to the Council's enforcement instructions • Concerned with lack of enforcement when planning conditions etc are flouted by applicants • Request a more robust approach. • Aware that the council receive large numbers of applications and the limitations due to cut-backs. • Concerns around the delay in acknowledging planning conditions violations concerns and an apparent tardiness on many occasions of any action being taken, this appears to be the case especially when an application is supported by the planning department but is turned down on referral to Planning Committee. • Often constant pressure is necessary by ourselves to obtain enforcement and effective action.
<p>Residents</p>	<p>Feedback within Inquiry Enforcement ToR</p>

Bedford Place/ Polygon Resident	<ul style="list-style-type: none"> • To Let signs flout planning regulations, by being up past the allowed period or having more than one per property. • Feels To Let signs are a branding exercise, as all initial research would be done online and by other means. If enforced it would be a level playing field business wise, but some of the smaller agents/ landlords may have to up their game- but that should be reflected in property too. • The Planning dept is either too stretched or are just not interested in dealing with smaller issues.
Student Unions	Feedback within Inquiry Enforcement ToR
Southampton University Students' Union	<ul style="list-style-type: none"> • Enforcement and improvement of standards in HMOs should be priorities for the Council. • SUSU welcomes improved partnership working to tackle unscrupulous landlords and lettings agencies and wish to see more effective mechanisms for enforcing student's rights as tenants.