

23/01/2014

Miss Louise Fagan,
Southampton City Council.

Dear Miss Fagan,

Re: Scrutiny Panel A – “The Council’s approach to planning enforcement”

Pointout Residents' Group thanks you for the invitation to submit evidence to the Scrutiny Panel concerning enforcement issues. Our experience relates solely to 2 properties in the immediate neighbourhood, both of which have been, and continue to be, operating as unlawful HMOs. We will not name the properties but rather use our experience to make general points.

We have found it very hard to obtain appropriate enforcement action against a property which was clearly operating as a long term unauthorized HMO in open defiance both of Council’s refusal to grant permission for C4 use and of PIN’s dismissal of the subsequent appeal. Repeated requests to Planning Officers for enforcement were declined. There seemed to be a marked reluctance on Council’s part to move to formal enforcement. What is not clear however is where the “sticking point” lies;

with Planning in requesting enforcement
with Legal in actioning the request
or with enforcement in delivering it.

In this particular case it seemed that Planning was ultimately willing to enforce, but the applicant kept submitting new applications and appeals and Council’s Legal Department / Planning Solicitor kept “recommending” (Chris Lyons’s wording) waiting until each successive application was judged before acting, resulting in a very delayed process. We have heard the term “risk adverse” used to describe the Council’s approach and concur with this description. In one instance Legal also recommended not scheduling discussion of a planning application by Panel until a related appeal had been decided, resulting in an appeal to PINS for non determination, with further time and cost implications for the Planning Team and where the Council’s (and local residents’) standpoint was not upheld by PINS. From the date of PIN’s decision (27th August 2013), it then took until 26th November (3 months) to actually issue the enforcement notice - surely these are generic documents for each type of planning breach, which are held on file and could easily be prepared in advance and sent out on the day that the decision is received?

In this particular case, (1) the enforcement notice was then served to a completely wrong address and it was only when we noticed this, and notified Council, that it was re-served to the correct address with a further month’s grace given to respond (2) The period for compliance was set at 6 months which seemed to be an unnecessarily generous one. Mr. Ivory has promised to investigate how the address error occurred; the delays extend the compliance period to the end of the academic year (very convenient for the owner).

In a second case, a property started acting as an unauthorized HMO. Given our experience with trying to action enforcement through Planning, in this case we approached the enforcement team directly and despite them being inundated with cases, we received a more proactive response and promise to investigate. In this instance a planning contravention notice was served on 19th November 2013. The PCN text is not available on the planning portal but we assume that it carried the standard requirement to reply within 21 days. No further information is

available on the Planning portal to say whether a reply was received or not, or what follow-up action is now underway.

From our limited experience at Planning Panel meetings and from discussions with other residents' groups and Councillors, it would seem that the Legal Department has been performing sub optimally; issuing inaccurate advice and causing long delays in decision making, causing problems for Council, applicants and resident groups. This has resulted in widespread frustration and cynicism; we can only hope that recent changes within the Department will prevent this from continuing.

It is clear from the admitted backlog of enforcement cases requested, under active investigation or in action, that the Council's enforcement team remains, despite its best endeavours, chronically under resourced (despite recent recruitment). We understand that it has proven hard to attract suitable applicants to fill vacant posts. However, as we understand it, these were advertised as extremely short term and part time contracts, which does not help attract the best candidates for what is clearly a demanding and complex job. Given the number of outstanding cases, we would suggest that thought be given to further recruitment and better terms of employment if at all possible

On a purely practical level, multiple attempts to contact enforcement officers by phone to obtain updated information have been unsuccessful. Messages have been left on the Team answer phones but infrequent return calls received. Again we appreciate that the team is under resourced.

In summary, we appreciate the impact of current financial constraints but the clearly apparent unwillingness / failure to enforce in a timely and appropriate manner is sending a clear and strong message to unscrupulous landlords, developers and the such that, chances are, they can get away with unauthorized development. It is also meaning that resident's associations are spending considerable time and effort and money (in our case for one property, nearly £2,800 in legal fees) in trying to ensure that planning breaches are not left unchallenged. This also ties up officer time and would be unnecessary if a more proactive approach were in evidence.

Yours sincerely,

David Johnston,

A handwritten signature in blue ink that reads "D.A. Johnston". The signature is written in a cursive style and is underlined with a single blue line.

Lynette Hand,

A handwritten signature in blue ink that reads "Lynette Hand". The signature is written in a cursive style.

for Pointout Residents' Group.