

WRITTEN SUBMISSION FROM WILLEN RESIDENTS GROUP

Dear Councillor Jenkins,

I am emailing you on behalf of the Willen Residents Group regarding your agenda item for tonight's Scrutiny Committee meeting over planning enforcement and information governance. I am happy for this email to be read out to the Committee if you so wish.

Most members of the Willen Residents Group live next to 42 Portland Drive and I am sure every Councillor in Milton Keynes Council will be aware of the planning enforcement issues at this property. It is probably the most controversial enforcement case this Council has ever had and there has been widespread media coverage with it being reported in every national newspaper.

In 2019, we submitted a Freedom of Information request about the records held by the Council following site visits to 42 Portland Drive over the enforcement matters. We wanted to understand how such a substantial and flagrant breach of planning control was allowed to happen.

The information provided by the Council in response to the request was noticeably incomplete. There were substantial gaps and missing records. One example is that we could not understand how there were only 4 photographs held by the Council from more than 10 site visits by enforcement officers. We requested an internal review and the Council upheld their original response.

We decided to raise the matter with the Information Commissioner's Office (ICO) and ask them to investigate. Following their initial investigation, the Council disclosed a large number of emails, most of which were unrelated to the request. Unfortunately, the Council failed to redact the personal data of confidential enforcement complaints. This was a data breach under the GDPR and the ICO issued a formal notification to the Council that it must improve its data protection practices.

The Council provided a categorical assurance to the ICO that it did not hold any further information in relation to our request. The ICO accepted these assurances, as it normally does, and it issued a decision notice to this effect. We decided to appeal this decision to the First-tier Tribunal (General Regulatory Chamber) as we felt confident that the Council must hold further records from the site visits to 42 Portland Drive.

During the course of our appeal, the Council suddenly disclosed further photographs that it held. This came after repeated assurances to ourselves and the ICO that it did not hold further information. The Tribunal judge joined the Council to the appeal and directed that the Council must explain this. The judge also wanted an explanation from the Council about why there are no records from the majority of site visits from enforcement officers.

The Council's Deputy Chief Executive has provided a witness statement to the Tribunal essentially apologising that the further photographs were not disclosed previously. This was an apparent oversight, although we think the Tribunal will take a different view. The Deputy Chief Executive was unable to explain why the records from site visits from experienced enforcement officers are missing.

There are very serious concerns by residents of Willen and Campbell Park Parish Council over the substantial gaps and missing records from site visits to 42 Portland Drive. Those concerns are likely to be expressed as well by the Tribunal in the coming weeks. It is expected that the Tribunal judge will be very critical of the Council and its information governance practices. The Scrutiny Committee will need to see this decision in due course.

We believe the Council has very serious issues with planning enforcement. Incomplete and poor records are one part of a wider issue that needs to be looked into and addressed. If you don't have records, you cannot have effective enforcement. There is no clearer example of this than when the Council tried to prosecute for the illegal works to a listed building in Stony Stratford ("the Smoke Shack") in 2014. At the Crown Court, the Council's barrister advised that the Council should cease the prosecution because the enforcement records were incomplete and completely unsatisfactory. There were lessons learnt following this and changes promised, but the same issues have reemerged again.

We would request that this Committee looks into planning enforcement in detail. We think it needs to be scrutinised and recommendations need to be made. You have issues with Blakelands, 42 Portland Drive and Mounts House. These are not isolated cases and you only have to look at the concern expressed at DCC last week over failures of enforcement at the Pink Punters nightclub in Bletchley. Effective enforcement is so important to ensuring confidence in the planning system. This Committee should be looking to scrutinise this important function of planning so changes and improvements can be made.

Kind regards,

Julia Critchley
On behalf of Willen Residents Group